AN ACT

relating to the continuation and functions of the Commission on Jail Standards.

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

SECTION 1. Section 511.003, Government Code, is amended to read as follows:

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2021 [2009].

SECTION 2. Subsections (g), (h), (i), and (j), Section 511.004, Government Code, are amended to read as follows:

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a [an occupational] regulatory agency in the field of law enforcement;

(2) is employed by or participates in the management of a business entity, county jail, or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible
goods, services, or funds from the commission, other than
compensation or reimbursement authorized by law for commission
membership, attendance, or expenses.

(h) A person who is appointed to and qualifies for [To be
eligible to take] office as a member of the commission may not vote,
deliberate, or be counted as a member in attendance at a meeting of
the commission until the[a] person completes [appointed to the
commission must complete at least one course of] a training program
that complies with Subsection (i).

(i) The training program required by Subsection (h) must
provide information to the person regarding:

(1) this chapter [the enabling legislation that
created the commission];

(2) the programs, functions, rules, and budget of
[operated by] the commission;

(3) the results of the most recent formal audit [role
and functions] of the commission;

(4) the requirements of laws relating to open
meetings, public information, administrative procedure, and
conflicts of interest [rules of the commission with an emphasis on
the rules that relate to disciplinary and investigatory authority];

and

(5) [the current budget for the commission;]

(6) the results of the most recent formal audit of the
commission;

(7) the requirements of the

[(A) open meetings law, Chapter 551;]
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[(48) open records law, Chapter 552; and
(4C) administrative procedure law, Chapter 2001;
(48) the requirements of the conflict of interest
laws and other laws relating to public officials; and
(49) any applicable ethics policies adopted by the
commission or the Texas Ethics Commission.

(j) A person appointed to the commission is entitled to
reimbursement [for travel expenses incurred in attending the
training program required by Subsection (h)] as provided by the
General Appropriations Act, for the travel expenses incurred in
attending the training program required by Subsection (h)
regardless of whether attendance at the program occurs before or
after [and as if] the person qualifies for office [were a member of
the commission].

SECTION 3. Subsection (a), Section 511.0041, Government
Code, is amended to read as follows:

(a) It is a ground for removal from the commission if a
member:

(1) does not have at the time of taking office
[appointment] the qualifications required by Section 511.004;

(2) does not maintain during service on the commission
the qualifications required by Section 511.004;

(3) is ineligible for membership under [violates a
prohibition established by] Section 511.004(g) or 511.0042;

(4) cannot discharge the member's duties for a
substantial part of the term for which the member is appointed
because of illness or disability; or
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(5) is absent from more than half of the regularly
scheduled commission meetings that the member is eligible to attend
during a calendar year without an excuse approved [unless the
absence is excused] by a majority vote of the commission.

SECTION 4. Section 511.0042, Government Code, is amended to
read as follows:

Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not
be a member of the commission and may not be a commission employee
employed in a "bona fide executive, administrative, or professional
capacity," as that phrase is used for purposes of establishing an
exemption to the overtime provisions of the federal Fair Labor
Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an [an] officer, employee, or paid
consultant of a Texas trade association in the field of county
corrections; or

(2) the person's [may not be a member of the commission
or an employee of the commission who is exempt from the state's
position classification plan or is compensated at or above the
amount prescribed by the General Appropriations Act for step 1,
salary group 17, of the position classification salary schedule.

[(b) A person who is the] spouse is [is] an officer,
manager, or paid consultant of a Texas trade association in the
field of county corrections [may not be a commission member and may
not be a commission employee who is exempt from the state's position
classification plan or is compensated at or above the amount
prescribed by the General Appropriations Act for step 1, salary
group 17, of the position classification salary schedule].
(b) In [(e) for the purpose of] this section, "Texas trade association" means [a Texas trade association is] a nonprofit cooperative[rd] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(c) [(d)] A person may not be [serve as] a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

SECTION 5. Chapter 511, Government Code, is amended by adding Section 511.0061 to read as follows:

Sec. 511.0061. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

SECTION 6. Section 511.0071, Government Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsection (a-1) to read as follows:

(a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints regarding the commission and complaints regarding jails under the commission's jurisdiction are filed with and resolved by the commission. The
commission shall make the information available:

(1) to the public, inmates, county officials, and appropriate state agencies; and

(2) on any publicly accessible Internet website maintained by the commission.

(a-1) The commission shall adopt rules and procedures regarding the receipt, investigation, resolution, and disclosure to the public of complaints regarding the commission and complaints regarding jails under the commission's jurisdiction that are filed with the commission. The commission shall:

(1) prescribe a form or forms on which written complaints regarding the commission and complaints regarding jails under the commission's jurisdiction may be filed with the commission;

(2) keep an information file in accordance with Subsection (f) regarding each complaint filed with the commission regarding the commission or a jail under the commission's jurisdiction;

(3) develop procedures for prioritizing complaints filed with the commission and a reasonable time frame for responding to those complaints;

(4) maintain a system for promptly and efficiently acting on complaints filed with the commission;

(5) develop a procedure for tracking and analyzing all complaints filed with the commission, according to criteria that must include:

(A) the reason for or origin of complaints;
(B) the average number of days that elapse between the date on which complaints are filed, the date on which the commission first investigates or otherwise responds to complaints, and the date on which complaints are resolved;

(C) the outcome of investigations or the resolution of complaints, including dismissals and commission actions resulting from complaints;

(D) the number of pending complaints at the close of each fiscal year; and

(E) a list of complaint topics that the commission does not have jurisdiction to investigate or resolve;

and

(6) regularly prepare and distribute to members of the commission a report containing a summary of the information compiled under Subdivision (5).

(d) [The commission shall keep an information file about each complaint filed with the commission that the commission has authority to resolve. The commission is not required to keep an information file about a complaint to the commission from or related to a prisoner of a county or municipal jail.] The commission shall adopt rules and procedures regarding the referral of [refer] a complaint filed with the commission from or related to a prisoner to the appropriate local agency for investigation and resolution. The commission [and] may perform a special inspection of a facility named in the complaint to determine compliance with commission requirements.

(e) If a written complaint is filed with the commission that
the commission has authority to resolve, the commission at least quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint, unless the notice would jeopardize an undercover investigation. This subsection does not apply to a complaint referred to a local agency under Subsection (d).

(f) The commission shall collect and maintain information about each complaint received by the commission regarding the commission or a jail under the commission's jurisdiction, including:

(1) the date the complaint is received;
(2) the name of the complainant;
(3) the subject matter of the complaint;
(4) a record of all persons contacted in relation to the complaint;
(5) a summary of the results of the review or investigation of the complaint; and
(6) for a complaint for which the agency took no action, an explanation of the reason the complaint was closed without action.

SECTION 7. Subsection (e), Section 511.008, Government Code, is amended to read as follows:

(e) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director [define the respective responsibilities of the commission] and the staff of the commission.
SECTION 8. Chapter 511, Government Code, is amended by
adding Section 511.0085 to read as follows:

Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN.

(a) The commission shall develop a comprehensive set of risk
factors to use in assessing the overall risk level of each jail
under the commission's jurisdiction. The set of risk factors must
include:

(1) a history of the jail's compliance with state law
and commission rules, standards, and procedures;

(2) the population of the jail;

(3) the number and nature of complaints regarding the
jail, including complaints regarding a violation of any required
ratio of correctional officers to inmates;

(4) problems with the jail's internal grievance
procedures;

(5) available mental and medical health reports
relating to inmates in the jail, including reports relating to
infectious disease or pregnant inmates;

(6) recent turnover among sheriffs and jail staff;

(7) inmate escapes from the jail;

(8) the number and nature of inmate deaths at the jail,
including the results of the investigations of those deaths; and

(9) whether the jail is in compliance with commission
rules, standards developed by the Texas Correctional Office on
Offenders with Medical or Mental Impairments, and the requirements
of Article 16.22, Code of Criminal Procedure, regarding screening
and assessment protocols for the early identification of and
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reports concerning persons with mental illness.

(b) The commission shall use the set of risk factors
developed under Subsection (a) to guide the inspections process for
all jails under the commission's jurisdiction by:

1. establishing a risk assessment plan to use in
assessing the overall risk level of each jail; and

2. regularly monitoring the overall risk level of
each jail.

SECTION 9. Subsection (a), Section 511.009, Government
Code, is amended to read as follows:

(a) The commission shall:

1. adopt reasonable rules and procedures
establishing minimum standards for the construction, equipment,
maintenance, and operation of county jails;

2. adopt reasonable rules and procedures
establishing minimum standards for the custody, care, and treatment
of prisoners;

3. adopt reasonable rules establishing minimum
standards for the number of jail supervisory personnel and for
programs and services to meet the needs of prisoners;

4. adopt reasonable rules and procedures
establishing minimum requirements for programs of rehabilitation,
education, and recreation in county jails;

5. revise, amend, or change rules and procedures if
necessary;

6. provide to local government officials
consultation on and technical assistance for county jails;
(7) review and comment on plans for the construction and major modification or renovation of county jails;
(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
(12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under
this chapter;

(14) require that the sheriff and commissioners court
of each county submit to the commission, on a form prescribed by the
commission, an annual report of persons under 17 years of age
securely detained in the county jail, including all information
necessary to determine compliance with state law concerning secure
confined of children in county jails; [and]

(15) schedule announced and unannounced inspections
of jails under the commission's [its] jurisdiction using the risk
assessment plan established under Section 511.0085 to guide the
inspections process;

(16) adopt a policy for gathering and distributing to
jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail
administration;

(B) examples of successful strategies for
maintaining compliance with state law and the rules, standards, and
procedures of the commission; and

(C) solutions to operational challenges for
jails;

(17) report to the Texas Correctional Office on
Offenders with Medical or Mental Impairments on a jail's compliance
with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures
establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan
addresses medical and mental health care, including nutritional
requirements, and any special housing or work assignment needs for
persons who are confined in the jail and are known or determined to
be pregnant; and

(19) provide guidelines to sheriffs regarding
contracts between a sheriff and another entity for the provision of
food services to or the operation of a commissary in a jail under
the commission's jurisdiction, including specific provisions
regarding conflicts of interest and avoiding the appearance of
impropriety [based on the jail's history of compliance with
commission standards and other high-risk factors identified by the
commission].

SECTION 10. Subsection (a), Section 511.0101, Government
Code, is amended to read as follows:

(a) Each county shall submit to the commission on or before
the fifth day of each month a report containing the following
information:

(1) the number of prisoners confined in the county
jail on the first day of the month, classified on the basis of the
following categories:

(A) total prisoners;
(B) pretrial Class C misdemeanor offenders;
(C) pretrial Class A and B misdemeanor offenders;
(D) convicted misdemeanor offenders;
(E) felony offenders whose penalty has been
reduced to a misdemeanor;
(F) pretrial felony offenders;
(G) convicted felony offenders;
(H) prisoners detained on bench warrants;
(I) prisoners detained for parole violations;
(J) prisoners detained for federal officers;
(K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;
(L) prisoners detained after having been transferred from another jail and for whom the commission has made a payment under Subchapter F, Chapter 499, Government Code; and
(M) other prisoners;
(2) the total capacity of the county jail on the first day of the month; [and]
(3) the total number of prisoners who were confined in the county jail during the preceding month, based on a count conducted on each day of that month, who were known or had been determined to be pregnant; and
(4) certification by the reporting official that the information in the report is accurate.

SECTION 11. Chapter 511, Government Code, is amended by adding Section 511.0115 to read as follows:

Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS OF JAILS. The commission shall provide information to the public concerning whether jails under the commission's jurisdiction are in compliance with state law and the rules, standards, and procedures
of the commission:

(1) on any publicly accessible Internet website
maintained by the commission; and

(2) through other formats, including newsletters or
press releases, as determined by the commission.

SECTION 12. Chapter 511, Government Code, is amended by
adding Section 511.018 to read as follows:

Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The
commission shall develop and implement a policy to encourage the
use of:

(1) negotiated rulemaking procedures under Chapter
2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution
procedures under Chapter 2009 to assist in the resolution of
internal and external disputes under the commission's
jurisdiction.

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

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

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

(2) serve as a resource for any training needed to
implement the procedures for negotiated rulemaking or alternative
dispute resolution; and
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(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

SECTION 13. Subsection (c), Section 511.0071, Government Code, is repealed.

SECTION 14. The change in law made by Subsection (h), Section 511.004, Government Code, as amended by this Act, regarding training for members of the Commission on Jail Standards does not affect the entitlement of a member serving on the commission immediately before September 1, 2009, to continue to serve and function as a member of the commission for the remainder of the member's term, unless otherwise removed as provided by law. The change in law described by Subsection (h), Section 511.004, Government Code, applies only to a member appointed or reappointed on or after September 1, 2009.

SECTION 15. The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Commission on Jail Standards do not affect the entitlement of a member serving on the commission immediately before September 1, 2009, to continue to serve and function as a member of the commission for the remainder of the member's term, unless otherwise removed as provided by law. Those changes in law apply only to a member appointed on or after September 1, 2009.

SECTION 16. This Act takes effect September 1, 2009.
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David Dewhurst
President of the Senate

J. Straus
Speaker of the House

I hereby certify that S.B. No. 1009 passed the Senate on April 16, 2009, by the following vote: Yeas 31, Nays 0; May 28, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 29, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

N. Sanet
Secretary of the Senate

I hereby certify that S.B. No. 1009 passed the House, with amendments, on May 21, 2009, by the following vote: Yeas 143, Nays 0, two present not voting; May 29, 2009, House granted request of the Senate for appointment of Conference Committee; May 31, 2009, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, one present not voting.

R. Hare
Chief Clerk of the House

Approved:

19 Jun '09

Rick Perry
Governor

Filed in the Office of the Secretary of State
2 PM, O'Clock
JUN 1, 2009