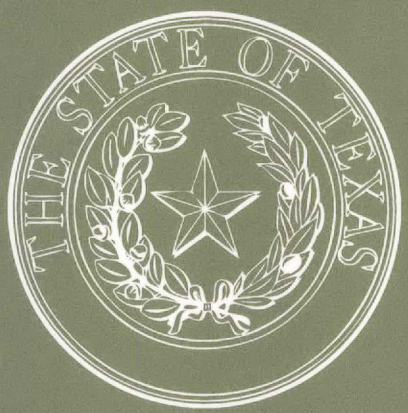
Texas School Law Bulletin



2014 Edition

Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

2014

TEXAS SCHOOL LAW BULLETIN

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ISBN: 978-0-7698-9456-0

Matthew Bender & Company, Inc.
Editorial Offices
701 East Water St.
Charlottesville, VA 22902
800-446-3410
www.lexisnexis.com

Product Number 3120311 (Softbound)
3020610 (Hardbound)

(Pub. 31203)

FOREWORD

Over the course of the past several years, the hard work of Texas students and educators – coupled with our state's commitment to rigor in the classroom – has resulted in some remarkable successes and improvements:

- The high school on-time graduation rate set an all-time high (87.7 percent) for the Class of 2012, besting the Class of 2011 rate – which was third highest high school graduation rate in the country.
- The 2013 composite ACT score for all Texas students taking the college admissions test hit a new high.
- In 2012, performance on Advanced Placement (AP) exams increased in all subgroups and outpaced growth in the number of students taking exams.
- Texas students in every major ethnic group significantly outscored their peers nationally on the eighth-grade National Assessment of Educational Progress (NAEP) science test in 2011.
- Texas Hispanic and African-American students earned the second highest score among their peer groups on the 2011 eighth-grade NAEP mathematics test.

Despite changing demographics in our classrooms and districts, the trends in education have, for the most part, been positive. However, in a state where more than 60 percent of our students are economically disadvantaged and more than 60 percent are Hispanic and African-American, continued improvements to close the achievement gap must remain our highest priority. The commitment should continue to be offering every child in every classroom in every district and charter across Texas a strong education.

The 83rd Texas Legislature passed more than one hundred bills that will impact the state's five million students in the years ahead. House Bill 5 made significant changes to the graduation requirements for Texas students, dramatically reducing the number of tests required to graduate, and eliminating the Minimum, Recommended, and Distinguished High School Programs in favor of a Foundation High School Program and a number of endorsements related to students' interests. Senate Bill 2 expanded the cap on the number of charter schools and transferred the authority to grant new charters from the State Board of Education to the Commissioner of Education.

While the Texas Education Agency and the State Board of Education have much work ahead in implementing the new legislative requirements, the most difficult work will remain with the students, educators, and parents working together in classrooms across the state. It is their efforts that will determine whether we can build on the state's recent successes in providing better educations for our students to close the achievement gap and meet the challenges of tomorrow.

Michael Williams
Commissioner of Education

Postsecondary success has been a pivotal focus of education in Texas over the past several years, if not decades. Public education continues to evolve to meet a growing demand for postsecondary-ready graduates with the academic background and the career and technical skills needed for success in the rapidly changing economy. The 83rd Legislature sought to incorporate flexibility and choice in the public education system to provide students with a broader range of rigorous education options that better meet their individual needs.

During session, legislators responded to growing demand from parents and the business community to reduce an overemphasis on testing and build flexibility into graduation plans for students. House Bill 5 restructures graduation plans, providing for a foundation diploma and five different endorsement options. This legislation maintains a high standard for academic success, while allowing students greater flexibility to select courses that align with their personal interests and goals. In addition, the number of state assessments was reduced, allowing educators and students to spend more time focused on teaching and learning.

This session also focused on providing students additional educational options. Senate Bill 2 authorizes a limited expansion of charter schools, and incorporates new standards to ensure only the highest quality charters serve students in Texas. In addition, House Bill 1926 expands educational options for Texas students by enabling any public school student to take up to three online courses per academic year. It streamlines course offerings and provides additional quality virtual courses to all Texas students. House Bill 2694 and Senate Bill 1365 also provide students a greater range of options to demonstrate mastery of a course and enables students to move ahead in courses or grade levels.

Given the national dialogue on student safety issues, legislators provided districts with support in this critical area. Senate Bill 1541 addresses student conduct issues on school buses, while House Bill 1009 enables districts and charters to appoint a certified school marshal for every 400 students. This important legislation provides an additional tool for districts to respond quickly to security issues with trained individuals.

Additionally, the Legislature remains committed to addressing the interests of students with special needs. House Bill 590 provides for an expanded assessment of blind and visually impaired students, while Senate Bill 816 requires districts to complete an evaluation of students referred for special education services more quickly to ensure those students receive the proper instruction. For special needs students preparing to transition from public school to the workforce, House Bill 617 provides additional resources for that process.

Education remains a top priority for the Legislature. The 83rd Legislature worked to put the needs of students first - improving our public school system and providing an education that prepares students for success in the global economy. We look forward to continuing to work with educators, parents, and communities across the state to build upon our students' successes and prepare for an even brighter future.

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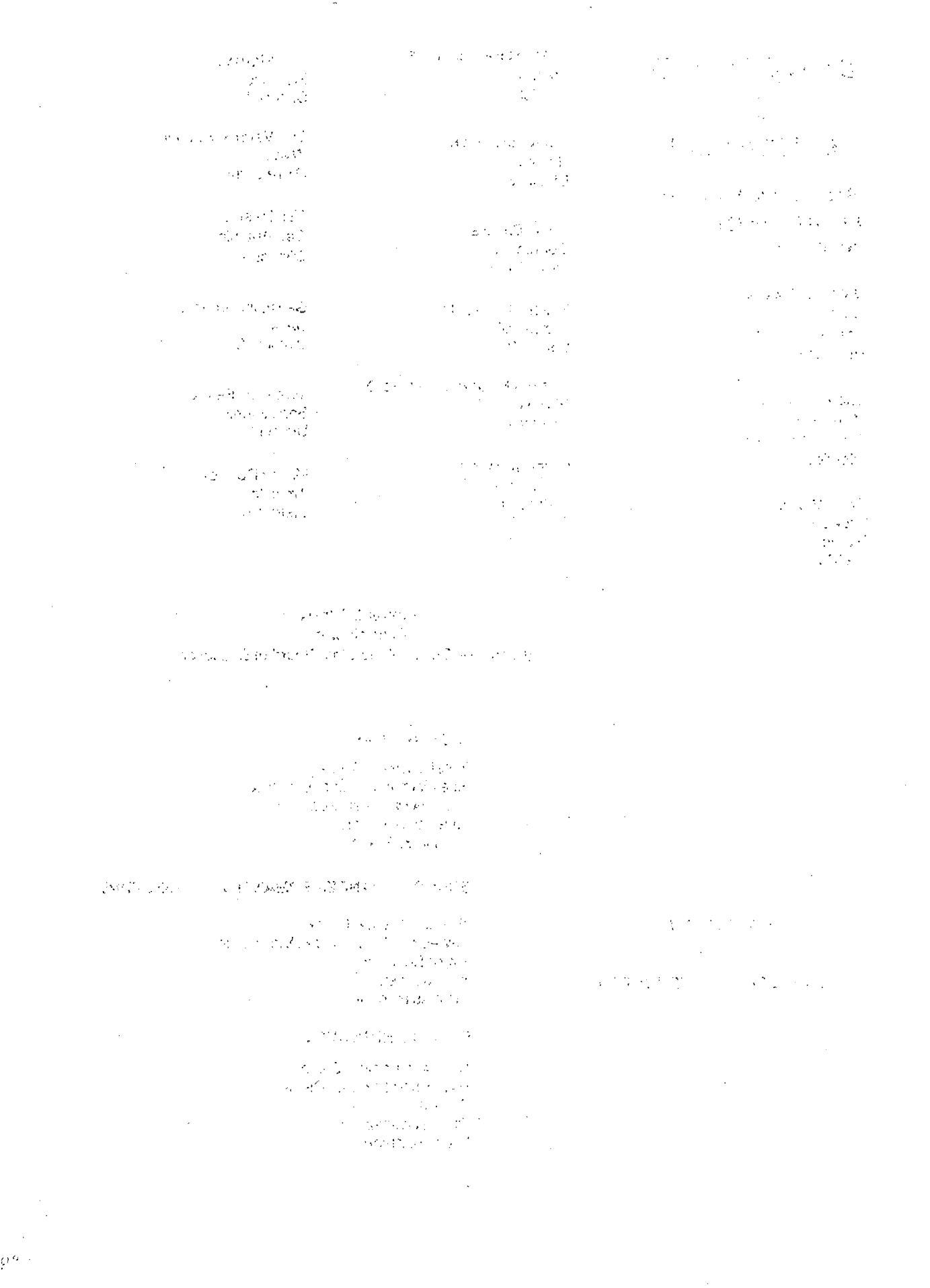

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551.1281	New	842
551.1282	New	690
551.130	Amended	87
551.130	Amended	1078
551.131	New	20
551.145	Amended	87
551.146	Amended	87
552.002	Amended	1204
552.003	Amended	1204
552.024	Amended	183
552.1085	New	1360
552.113	Amended	279
552.117	Amended	1033
552.1175	Amended	937
552.1175	Amended	1033
552.130	Amended	85
552.138	Amended	365
552.147	Amended	183
552.153	Amended	1153
552.154	Amended	161
552.274	Amended	161
552.3221	New	461
662.056	New	11
662.056	New	51
791.011	Amended	1127
791.035	New	1211
824.1012	Amended	1078
824.1013	Amended	1078
824.202	Amended	1214
824.702	New	1214
824.807	Amended	1214
825.002	Amended	1078
825.108	Amended	1312
825.115	Amended	1078
825.204	Amended	1078
825.211	Repealed	1078
825.212	Amended	1078
825.307	Amended	1214
825.312	Amended	1078
825.313	Amended	1078
825.314	Amended	1078
825.402	Amended	1078
825.402	Amended	1214
825.403	Amended	1214
825.404	Amended	812
825.404	Amended	1078
825.404	Amended	1214
825.407	Amended	312
825.4071	New	812
825.410	Amended	1078
825.411	Repealed	1078
825.507	Amended	1078
825.510	Repealed	1312
825.515	Amended	1078
825.4035	New	1214
825.515	Amended	1078
825.518	Repealed	1312
830.201	Amended	812
1202.007	Amended	1018
2001.028	Amended	93
2157.068	Amended	48
2157.068	Amended	151
2175.184	Amended	1153
2175.905	Amended	1153
2252.002	Amended	1127
2252.002	Amended	1404

Section	Effect	Chapter
2257.045	Amended	434
2257.046	Amended	434
2259.031	Amended	428
2267.001	Amended	271
2267.001	Amended	1153
2267.003	Amended	1153
2267.005	New	713
2267.005	New	1153
2267.005	New	1339
2267.006	New	1153
2267.0051	New	1153
2267.0052	New	1153
2267.0061	New	1153
2267.0062	New	1153
2267.0063	New	1153
2267.0064	New	1153
2267.0065	New	1153
2267.0066	New	1153
2267.0067	New	1153
2267.051	Amended	1153
2267.052	Amended	1153
2267.053	Amended	1153
2267.0531	New	713
2267.055	Amended	1153
2267.058	Amended	1153
2267.066	Amended	1153
2268.055	Amended	1153
2268.056	Amended	1153
2268.058	Amended	1153
2269.001	Amended	161
2269.002	Amended	161
2269.003	Amended	161
2269.004	Amended	161
2269.005	Amended	161
2269.006	Amended	161
2269.007	Amended	161
2269.008	Amended	161
2269.009	Amended	161
2269.010	Amended	161
2269.051	Amended	161
2269.052	Amended	161
2269.053	Amended	161
2269.054	Amended	161
2269.055	Amended	161
2269.056	Amended	161
2269.057	Amended	161
2269.058	Amended	161
2269.059	Amended	161
2269.101	Amended	161
2269.102	Amended	161
2269.103	Amended	161
2269.104	Amended	161
2269.105	Amended	161
2269.106	Amended	161
2269.151	Amended	161
2269.152	Amended	161
2269.153	Amended	161
2269.154	Amended	161
2269.155	Amended	161
2269.201	Amended	161
2269.202	Amended	161
2269.203	Amended	161
2269.204	Amended	161
2269.205	Amended	161
2269.206	Amended	161
2269.207	Amended	161
2269.208	Amended	161
2269.251	Amended	161
2269.252	Amended	161
2269.253	Amended	161
2269.254	Amended	161
2269.255	Amended	161
2269.256	Amended	161
2269.257	Amended	161
2269.258	Amended	161
2269.301	Amended	161
2269.302	Amended	161
2269.303	Amended	161
2269.304	Amended	161
2269.305	Amended	161
2269.306	Amended	161
2269.307	Amended	161
2269.308	Amended	161
2269.309	Amended	161
2269.310	Amended	161
2269.311	Amended	161
2269.351	Amended	161
2269.352	Amended	161
2269.353	Amended	161
2269.353	Amended	1127
2269.354	Amended	161
2269.354	Amended	1127
2269.354	Amended	1356
2269.355	Amended	161
2269.356	Amended	161
2269.357	Amended	161
2269.358	Amended	161
2269.359	Amended	161
2269.360	Amended	161
2269.361	Amended	161
2269.362	Amended	161
2269.363	Amended	161
2269.364	Amended	161
2269.365	Amended	161
2269.366	Amended	161
2269.367	Amended	161
2269.401	Amended	161
2269.402	Amended	161
2269.403	Amended	161
2269.404	Amended	161
2269.405	Amended	161
2269.406	Amended	161
2269.407	Amended	161
2269.408	Amended	161
2269.409	Amended	161
2269.410	Amended	161

Section	Effect	Chapter
2269.411	Amended	161
2269.451	Amended	161
2269.452	Amended	161
Health and Safety code		
38.001	Repealed	1261
38.002	Repealed	1261
161.325	Amended	578
161.325	Amended	1321
161.326	New	1321
386.051	Amended	1230
386.252	Amended	161
386.252	Amended	1230
Human Resources code		
114.002	Amended	536
114.008	Amended	1312
121.003	Amended	838
Insurance code		
1575.003	Amended	1078
1575.158	Amended	1214
1575.1581	New	1214
1575.170	Amended	1312
1575.205	Amended	1078
1579.004	Amended	1078
1579.103	Repealed	1214
Labor code		
207.021	Amended	107
207.021	Amended	1141
207.0212	Amended	107
207.026	New	1141
207.045	Amended	117
207.045	Amended	310
207.045	Amended	1398
207.046	Amended	841
207.052	Repealed	1398
302.014	New	212
Local Government Code		
87.012	Amended	508
140.006	Amended	1140
176.009	Amended	847
180.002	Amended	56
271.151	Amended	1138
271.153	Amended	1138
302.007	Amended	161
303.007	New	767
Occupations Code		
53.021	Amended	938
53.021	Amended	1265
55.001	Amended	66
55.005	New	66
55.005	New	348
55.006	New	66
55.007	New	66
1202.107	New	27
1202.351	Repealed	110

Section	Effect	Chapter
Penal Code		
22.01	Amended	875
36.05	Amended	165
36.10	Amended	1149
37.01	Amended	161
42.01	Amended	953
42.01	Amended	1407
42.01	Amended	1409
46.035	Amended	72
46.05	Amended	93
46.05	Amended	960
71.02	Amended	161
71.02	Amended	1252
Tax Code		
26.012	Amended	161
26.012	Amended	1030
26.10	Amended	122
26.10	Amended	138
26.112	Amended	138
26.1127	New	122
26.15	Amended	643
313.002	Amended	1304
313.003	Amended	1304
313.004	Amended	1304
313.007	Amended	1304
313.008	Repealed	1304
313.009	Repealed	1304
313.010	New	1274
313.010	New	1304
313.021	Amended	1272
313.021	Amended	1304
313.024	Amended	1304
313.025	Amended	1304
313.026	Amended	1304
313.0265	Amended	1304
313.027	Amended	1304
313.0275	Amended	1304
313.0276	New	1304
313.031	Amended	1304
313.032	Amended	1304
313.033	New	1304
313.051	Amended	1304
313.054	Amended	1304
313.101	Repealed	1304
313.102	Repealed	1304
313.103	Repealed	1304
313.104	Repealed	1304
313.105	Repealed	1304
313.171	Amended	1304
Transportation Code		
541.201	Amended	17
541.201	Amended	254
541.201	Amended	275
541.201	Amended	630
545.066	Amended	661
545.413	Amended	161

Section	Effect	Chapter
547.614	Amended	843
547.617	New	1111

COMPLIANCE STATEMENT

TITLE VI, CIVIL RIGHTS ACT OF 1964; TITLE VII, CIVIL RIGHTS ACT OF 1964 AS AMENDED BY THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972; EQUAL PAY ACT OF 1964; TITLE IX, EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED; IMMIGRATION REFORM AND CONTROL ACT OF 1991; AMERICANS WITH DISABILITIES ACT OF 1990; AND THE CIVIL RIGHTS ACT OF 1991.

The Texas Education Agency shall comply fully with the nondiscrimination provisions of all federal and state laws, rules, and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any educational programs or activities which it operates on the grounds of race, religion, color, national origin, sex, disability, age, or veteran status (except where age, sex, or disability constitutes a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency is an Equal Employment Opportunity employer.

Education Code

TITLE 1
GENERAL PROVISIONS

CHAPTER 1
GENERAL PROVISIONS

Section

Sec. 1.001. Applicability.

(a) This code applies to all educational institutions supported in whole or in part by state tax funds unless specifically excluded by this code.

(b) Except as provided by Chapter 18, Chapter 19, Subchapter A of Chapter 29, Subchapter E of Chapter 30, or Chapter 30A, this code does not apply to students, facilities, or programs under the jurisdiction of the Department of Aging and Disability Services, the Department of State Health Services, the Health and Human Services Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, a Job Corps program operated by or under contract with the United States Department of Labor, or any juvenile probation agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 2, effective June 17, 2005; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 1, effective September 1, 2009.)

Sec. 1.002. Equal Educational Services or Opportunities.

(a) An educational institution undertaking to provide education, services, or activities to any individual within the jurisdiction or geographical boundaries of the educational institution shall provide equal opportunities to all individuals within its jurisdiction or geographical boundaries pursuant to this code.

(b) An educational institution may not deny services to any individual eligible to participate in a school district's special education program as provided by Section 29.003, but the educational institution shall provide individuals with disabilities special educational services as authorized by law or, where expressly authorized, assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 1.003. The Flying of the United States and Texas Flags.

On all regular school days, every school and other educational institution to which this code applies shall fly the United States and Texas flags.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 1.004. Display of National Motto.

A public elementary or secondary school or an institution of higher education as defined by Section 61.003 may display the United States national motto, "In God We Trust," in each classroom, auditorium, and cafeteria.

(Enacted by Acts 2003, 78th Leg., ch. 412 (H.B. 219), § 1, effective June 20, 2003.)

Sec. 1.005. Education Research Centers.

(a) In this section:

(1) "Center" means a center for education research authorized by this section.

(2) "Coordinating board" means the Texas Higher Education Coordinating Board.

(1-a) "Cooperating agencies" means the Texas Education Agency, the Texas Higher Education Coordinating Board, and the Texas Workforce Commission.

(b) The coordinating board shall establish not more than three centers for education research to conduct studies or evaluations using the data described by this section.

(c) A center must be established as part of a public junior college, public senior college or university, or public state college, as those terms are defined by Section 61.003, or a consortium of those institutions. The coordinating board shall solicit requests for proposals from appropriate institutions to establish centers under this section and shall

select one or more institutions to establish each center based on criteria adopted by the coordinating board.

(d) A center must be operated under an agreement between the coordinating board and the governing board of each institution described by Subsection (c) operating or participating in the operation of the center. The agreement must provide for the operation of the center, so long as the center meets contractual and legal requirements for operation, for a 10-year period.

(e) A center shall conduct education and workforce preparation studies or evaluations for the benefit of this state, including studies or evaluations relating to:

(1) the impact of local, regional, state, and federal policies and programs, including an education program, intervention, or service at any level of education from preschool through postsecondary education;

(2) the performance of educator preparation programs;

(3) public school finance; and

(4) the best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices.

(f) Any cooperating agency may request a center to conduct certain studies or evaluations considered of particular importance to the state, as determined by the cooperating agency, if the cooperating agency provides to the center sufficient funds to finance the study or evaluation.

(g) A center shall comply with rules adopted by the advisory board established under Section 1.006 to protect the confidentiality of information used or stored at the center in accordance with applicable state and federal law, including rules establishing procedures to ensure that confidential information is not duplicated or removed from a center in an unauthorized manner.

(g-1) In conducting studies or evaluations under this section, a center:

(1) may use student and educator data, including data that is confidential if permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), that the center has collected from a cooperating agency or any other agency, a public or private institution of higher education, a school district, a provider of services to a school district or public or private institution of higher education, or an entity explicitly named in an approved research project of the center;

(2) shall comply with state and federal law governing the confidentiality of student information and shall provide for the review of all study and evaluation results to ensure compliance with those laws and any rules adopted or regulatory guidance issued under those laws;

(3) may provide researchers access to shared data only through secure methods and require each researcher to execute an agreement regarding compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) and rules adopted under that Act; and

(4) shall conduct regular security audits and report the audit results to the coordinating board and the advisory board established under Section 1.006.

(h) The cooperating agencies and the educational institution or institutions operating a center may accept gifts and grants to be used for the purposes of this section. The educational institution or institutions operating a center may impose reasonable charges, as appropriate, for the use of a center's research, resources, or facilities.

(i) This section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(j) The cooperating agencies shall execute agreements for the sharing of data for the purpose of facilitating the studies or evaluations at education research centers described by this section. In accordance with the agreements, each cooperating agency shall make available all appropriate data, including to the extent possible data collected by the cooperating agency for the preceding 20 years. A cooperating agency shall periodically update the data as additional data is collected, but not less than once each year.

(j-1) In accordance with an agreement under Subsection (j), the coordinating board shall maintain the data contributed by the cooperating agencies in a repository to be known as the P-20/Workforce Data Repository. The repository shall be operated by the coordinating board. As provided by the agreement, the coordinating board shall include other data in the repository, including data from college admission tests and the National Student Clearinghouse. The coordinating board shall conduct data matching using a protocol approved by the cooperating agencies.

(j-2) The coordinating board may enter into data agreements for data required for approved studies or evaluations with the state education agency of another state, giving priority to the agencies of those states that send the highest number of postsecondary education students to this state or that receive the highest number of postsecondary education students from this state. An agreement under this

subsection must be reviewed by the United States Department of Education and must require the agency of another state to comply with all data security measures required of a center. The coordinating board may also enter into data agreements with local agencies or organizations that provide education services to students in this state or that collect data that is relevant to current or former students of public schools in this state and is useful to the conduct of research that may benefit education in this state.

(k) In implementing this section, a cooperating agency may use funds appropriated to the cooperating agency and available for the purpose of establishing the centers. After a center is established, the center must be funded by gifts and grants accepted under this section or charges imposed under Subsection (h).

(*l*) Notwithstanding another provision of this section, a cooperating agency must establish procedures that protect confidential information provided to a center by a cooperating agency.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.01, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 465 (H.B. 2103), §§ 1—3, effective June 14, 2013.)

Sec. 1.006. Education Research Center Advisory Board.

(a) The commissioner of higher education shall create, chair, and maintain an advisory board for the purpose of reviewing study or evaluation proposals and ensuring appropriate data use under Section 1.005, including compliance with applicable state and federal laws governing use of and access to the data.

(b) The advisory board is not a governmental body for purposes of Chapter 551 or 552, Government Code.

(c) The membership of the advisory board must include:

(1) a representative of the Texas Higher Education Coordinating Board, designated by the commissioner of higher education;

(2) a representative of the Texas Education Agency, designated by the commissioner of education;

(3) a representative of the Texas Workforce Commission, designated by the commission;

(4) the director of each education research center or the director's designee; and

(5) a representative of preschool, elementary, or secondary education.

(d) Each study or evaluation conducted at a center under Section 1.005 must be approved in advance by majority vote of the advisory board. A center may submit to the advisory board a proposal developed by any qualified researcher, including a researcher from another educational institution, a graduate student, a P-16 Council representative, or another researcher proposing research to benefit education in this state. In determining whether to approve a proposed study or evaluation, the advisory board must:

(1) consider the potential of the proposed research to benefit education in this state;

(2) require each center director or designee to review and approve the proposed research design and methods to be used in the proposed study or evaluation; and

(3) consider the extent to which the data required to complete the proposed study or evaluation is not readily available from other data sources.

(e) The advisory board shall meet at least quarterly. Any meeting of the advisory board may be conducted by electronic means, including a meeting by telephone conference call, by video conference call, through the Internet, or by any combination of those means.

(f) The advisory board may create committees and subcommittees that the advisory board determines are convenient or necessary.

(Enacted by Acts 2013, 83rd Leg., ch. 465 (H.B. 2103), § 4, effective June 14, 2013.)

TITLE 2
PUBLIC EDUCATION

SUBTITLE A
GENERAL PROVISIONS

CHAPTER 4
PUBLIC EDUCATION MISSION, OBJECTIVES, AND GOALS

Section

Sec. 4.001. Public Education Mission and Objectives.

(a) The mission of the public education system of this state is to ensure that all Texas children have access to a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation. That mission is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of this state and for the preservation of the liberties and rights of citizens. It is further grounded on the conviction that a successful public education system is directly related to a strong, dedicated, and supportive family and that parental involvement in the school is essential for the maximum educational achievement of a child.

(b) The objectives of public education are:

OBJECTIVE 1: Parents will be full partners with educators in the education of their children.

OBJECTIVE 2: Students will be encouraged and challenged to meet their full educational potential.

OBJECTIVE 3: Through enhanced dropout prevention efforts, all students will remain in school until they obtain a high school diploma.

OBJECTIVE 4: A well-balanced and appropriate curriculum will be provided to all students.

OBJECTIVE 5: Educators will prepare students to be thoughtful, active citizens who have an appreciation for the basic values of our state and national heritage and who can understand and productively function in a free enterprise society.

OBJECTIVE 6: Qualified and highly effective personnel will be recruited, developed, and retained.

OBJECTIVE 7: The state's students will demonstrate exemplary performance in comparison to national and international standards.

OBJECTIVE 8: School campuses will maintain a safe and disciplined environment conducive to student learning.

OBJECTIVE 9: Educators will keep abreast of the development of creative and innovative techniques in instruction and administration using those techniques as appropriate to improve student learning.

OBJECTIVE 10: Technology will be implemented and used to increase the effectiveness of student learning, instructional management, staff development, and administration.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 82 (H.B. 319), § 1, effective September 1, 2003.)

Sec. 4.002. Public Education Academic Goals.

To serve as a foundation for a well-balanced and appropriate education:

GOAL 1: The students in the public education system will demonstrate exemplary performance in the reading and writing of the English language.

GOAL 2: The students in the public education system will demonstrate exemplary performance in the understanding of mathematics.

GOAL 3: The students in the public education system will demonstrate exemplary performance in the understanding of science.

GOAL 4: The students in the public education system will demonstrate exemplary performance in the understanding of social studies.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 4.003. [Null].

CHAPTER 5
DEFINITIONS

Section

Sec. 5.001. Definitions.

In this title:

(1) "Agency" means the Texas Education Agency.

(2) "Classroom teacher" means an educator who is employed by a school district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher's aide or a full-time administrator.

(3) "Commissioner" means the commissioner of education.

(4) "Educationally disadvantaged" means eligible to participate in the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(5) "Educator" means a person who is required to hold a certificate issued under Subchapter B, Chapter 21.

(6) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12.

(6-a) "Private school" means a school that:

(A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) is not operated by a governmental entity.

(7) "Regional education service centers" means a system of regional and educational services established in Chapter 8.

(8) "Residential facility" means:

(A) a facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and

(B) any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under Paragraph (A).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.03, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 1, effective June 15, 2007.)

Sec. 5.002. References to Textbook.

In this title, a reference to a textbook means instructional material, as defined by Section 31.002. (Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 1, effective July 19, 2011.)

SUBTITLE B
STATE AND REGIONAL ORGANIZATION AND GOVERNANCE

CHAPTER 7
STATE ORGANIZATION

Subchapter A. General Provisions

Subchapter B. Texas Education Agency

Subchapter C. Commissioner of Education

Subchapter D. State Board of Education

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 7.001. Definition.

In this chapter, "board" means the State Board of Education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.002. Texas Education Agency: Composition and Purpose.

(a) The commissioner of education and the agency staff comprise the Texas Education Agency.

(b) The agency shall carry out the educational functions specifically delegated under Section 7.021, 7.055, or another provision of this code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.003. Limitation on Authority.

An educational function not specifically delegated to the agency or the board under this code is reserved to and shall be performed by school districts or open-enrollment charter schools.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.004. Sunset Provision.

The Texas Education Agency is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the agency is abolished September 1, 2015.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 1227 (H.B. 1116), art. 1, § 1.05(a), effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 8, § 8.01, effective May 31, 2006; am. Acts 2009, 81st Leg., 1st C.S., ch. 2 (S.B. 2), art. 2, § 2.01, effective July 10, 2009; am. Acts 2013, 83rd Leg., ch. 1279 (H.B. 1675), § 1.01(a), effective June 14, 2013.)

Sec. 7.005. Cooperation Between State Agencies of Education.

The State Board of Education and the Texas Higher Education Coordinating Board, in conjunction with other appropriate agencies, shall ensure that long-range plans and educational programs established by each board provide a comprehensive education for the students of this state under the jurisdiction of that board, extending from early childhood education through postgraduate study. In assuring that programs are coordinated, the boards shall use the P-16 Council established under Section 61.076.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 36, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.001, effective September 1, 2007.)

Sec. 7.006. Coordination of Records.

The commissioner of education and the commissioner of higher education shall ensure that records relating to student performance held by the Texas Education Agency and the Texas Higher Education Coordinating Board are coordinated and maintained in standardized, compatible formats that permit:

(1) the exchange of information between the agencies; and

(2) the matching of individual student records so that a student's academic performance may be assessed throughout the student's educational career.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 1, effective September 1, 2001.)

Sec. 7.008. Public Access to PEIMS Data.

(a) The commissioner with the assistance of an advisory panel described by Subsection (b) shall develop a request for proposal for a qualified third-party contractor to develop and implement procedures to make available, through the agency Internet website, all financial and academic performance data submitted through the Public Education Information Management System (PEIMS) for school districts and campuses.

(b) The commissioner shall appoint an advisory panel to assist the commissioner in developing requirements for a system that is easily accessible by the general public and contains information of primary relevance to the public. The advisory panel shall consist of:

(1) educators;

(2) interested stakeholders;

(3) business leaders; and

(4) other interested members of the public.

(c) The procedures developed under this section must provide:

(1) a summarized format easily understood by the public for reporting financial and academic performance information on the agency Internet website; and

(2) the ability for those who access the Internet website to view and download state, district, and campus level information.

(d) This section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). The commissioner shall adopt rules to protect the confidentiality of student information.

(e) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.02, effective August 1, 2009.] (Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.02, effective May 31, 2006.)

Sec. 7.009. Best Practices; Clearinghouse.

(a) In coordination with the Legislative Budget Board, the agency shall establish an online clearinghouse of information relating to best practices of campuses, school districts, and open-enrollment charter schools. The agency shall determine the appropriate topic categories for which a campus, district, or charter school may submit best practices. To the extent practicable, the agency shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient campuses, districts, and open-enrollment charter schools and of academically acceptable campuses, districts, and open-enrollment charter schools that have demonstrated significant improvement in student achievement rather than general guidelines relating to campus, district, and open-enrollment charter school operation. The information must be accessible by campuses, school districts, open-enrollment charter schools, and interested members of the public.

(b) The agency shall solicit and collect from the Legislative Budget Board, centers for education research established under Section 1.005, and school districts, campuses, and open-enrollment charter schools examples of best practices as determined by the agency under Subsection (a).

(c) The agency shall contract for the services of one or more third-party contractors to develop, implement, and maintain a system of collecting and evaluating the best practices of campuses, school districts, and open-enrollment charter schools as provided by this section. In addition to any other considerations required by law, the agency must consider an applicant's demonstrated competence and qualifications in analyzing campus, school district, and open-enrollment charter school practices in awarding a contract under this subsection.

(d) The commissioner may purchase from available funds curriculum and other instructional tools identified under this section to provide for use by school districts and open-enrollment charter schools.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.02, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 1, effective June 19, 2009.)

Sec. 7.010. Electronic Student Records System.

(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) Each school district, open-enrollment charter school, and institution of higher education shall participate in an electronic student records system that satisfies standards approved by the commissioner of education and the commissioner of higher education.

(c) The electronic student records system must permit an authorized state or district official or an authorized representative of an institution of higher education to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

(1) course or grade completion;

(2) teachers of record;

(3) assessment instrument results;

(4) receipt of special education services, including placement in a special education program and the individualized education program developed; and

(5) personal graduation plan as described by Section 28.0212 or 28.02121, as applicable.

(d) The commissioner of education or the commissioner of higher education may solicit and accept grant funds to maintain the electronic student records system and to make the system available to school districts, open-enrollment charter schools, and institutions of higher education.

(e) A private or independent institution of higher education, as defined by Section 61.003, may participate in the electronic student records system under this section. If a private or independent institution of higher education elects to participate, the institution must provide the funding to participate in the system.

(f) Any person involved in the transfer and retrieval of student information under this section is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

(g) [Expired pursuant to Acts 2006, 79th Leg., ch. 5 (H.B. 1), § 3.01, effective September 1, 2008.]

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.01, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 1(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 1(b) provides: "This section applies beginning with the 2014-2015 school year."

SUBCHAPTER B
TEXAS EDUCATION AGENCY

Sec. 7.021. Texas Education Agency Powers and Duties.

(a) The agency shall perform the educational functions provided by Subsection (b).

(b) (1) The agency shall administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs.

(2) The agency shall conduct research, analysis, and reporting to improve teaching and learning.

(3) The agency shall conduct hearings involving state school law at the direction and under the supervision of the commissioner.

(4) The agency shall establish and implement pilot programs established by this title.

(5) The agency shall carry out the duties relating to the investment capital fund under Section 7.024.

(6) The agency shall develop and implement a teacher recruitment program as provided by Section 21.004.

(7) The agency shall carry out duties under the Texas Advanced Placement Incentive Program under Subchapter C, Chapter 28.

(8) The agency shall carry out powers and duties relating to community education as required under Subchapter H, Chapter 29.

(9) The agency shall develop a program of instruction in driver education and traffic safety as provided by Section 29.902.

(10) The agency shall carry out duties assigned under Section 30.002 concerning children with visual impairments.

(11) The agency shall carry out powers and duties related to regional day school programs for the deaf as provided under Subchapter D, Chapter 30.

(12) The agency shall establish and maintain an electronic information transfer system as required under Section 32.032, maintain and expand telecommunications capabilities of school districts and regional education service centers as required under Section 32.033, and establish technology demonstration programs as required under Section 32.035.

(13) The agency shall review school district budgets, audit reports, and other fiscal reports as required under Sections 44.008 and 44.010 and prescribe forms for financial reports made by or for school districts to the commissioner or the agency as required under Section 44.009.

(14) The agency shall cooperate with the Texas Higher Education Coordinating Board in connection with the Texas partnership and scholarship program under Subchapter Q, Chapter 61.

(c) The agency may enter into an agreement with a federal agency concerning a project related to education, including the provision of school lunches and the construction of school buildings. Not later than the 30th day before the date the agency enters into an agreement under this subsection concerning a new project or reauthorizing a project, the agency must provide written notice, including a description of the project, to:

(1) the governor;

(2) the Legislative Budget Board; and

(3) the presiding officers of the standing committees of the senate and of the house of representatives with primary jurisdiction over the agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 6, § 6.01, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.002(2), effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.01, effective September 1, 2013.)

Sec. 7.022. Internal Audit.

The auditor appointed by the commissioner under Section 7.055 shall coordinate the agency's efforts to evaluate and improve its internal operations.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1122 (H.B. 2906), § 1, effective September 1, 1997.)

Sec. 7.023. Agency Employment Policy.

A decision of the agency relating to employment shall be made without regard to a person's race, color, disability, sex, religion, age, or national origin.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.024. Investment Capital Fund.

(a) The investment capital fund consists of money appropriated for purposes of the fund. The agency shall administer the fund. The purposes of this fund are to assist eligible public schools to implement practices and procedures consistent with deregulation and school restructuring in order to improve

student achievement and to help schools identify and train parents and community leaders who will hold the school and the school district accountable for achieving high academic standards.

(b) The commissioner may make grants from the fund to eligible schools.

(c) A school is eligible to apply for a grant if the school has demonstrated a commitment to campus deregulation and to restructuring educational practices and conditions at the school by entering into a partnership with:

(1) school staff;

(2) parents of students at the school;

(3) community and business leaders;

(4) school district officers;

(5) a nonprofit, community-based organization that has a demonstrated capacity to train, develop, and organize parents and community leaders into a large, nonpartisan constituency that will hold the school and the school district accountable for achieving high academic standards; and

(6) the agency.

(d) A grant from the fund shall be made directly to the school and may be used for the training and development of school staff, parents, and community leaders in order that they understand and implement the academic standards and practices necessary for high academic achievement, appropriate strategies to deregulate and restructure the school in order to improve student achievement, and effective strategies to organize parents and community leaders into a large, nonpartisan constituency that will hold the school and the school district accountable for achieving high academic standards. The grant may be used to implement strategies developed by the partners that are designed to enrich or extend student learning experiences outside of the regular school day.

(e) The commissioner may make a grant of up to $50,000 each academic year to an eligible school. Campus administration personnel of a school that receives a grant under this section are accountable to the commissioner of education and must demonstrate:

(1) the responsible use of the grant to achieve campus deregulation and restructuring to improve academic performance;

(2) a comprehensive plan to engage in ongoing development and training of teachers, parents, and community leaders to:

(A) understand academic standards;

(B) develop effective strategies to improve academic performance; and

(C) organize a large constituency of parents and community leaders to hold the school and school district accountable to achieve high academic standards;

(3) ongoing progress in achieving higher academic performance; and

(4) ongoing progress in identifying, training, and organizing parents and community leaders who are holding the school and the school district accountable for achieving high academic standards.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 937 (H.B. 2359), § 1, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 2, effective September 1, 2009.)

Sec. 7.025. YMCA Account.

The YMCA account is a separate account in the general revenue fund. The account is composed of money deposited to the credit of the account under Section 502.299, Transportation Code, as added by Chapter 433, Acts of the 76th Legislature, Regular Session, 1999. The Texas Education Agency administers the account and may spend money credited to the account only to make grants to benefit the youth and government programs sponsored by the Young Men's Christian Associations located in Texas.

(Enacted by Acts 2001, 77th Leg., ch. 869 (H.B. 1831), § 2(b), effective June 14, 2001.)

Sec. 7.026. Donations for Use Related to Cardiopulmonary Resuscitation (CPR) Instruction.

(a) The agency may accept donations, including donations of equipment, for use in providing cardiopulmonary resuscitation (CPR) instruction to students. The agency:

(1) shall distribute the donations to school districts for the purpose of providing CPR instruction to students under Sections 28.0023 and 29.903; and

(2) may use a portion of the donations to the extent necessary to pay administrative expenses related to the donations.

(b) The commissioner may adopt rules as necessary to implement this section.

(Enacted by Acts 2001, 77th Leg., ch. 814 (H.B. 821), § 1, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(11), effective September 1, 2003 (renumbered from Sec. 7.025); am. Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 2, effective June 15, 2007.)

Sec. 7.027. Texas Music Foundation Account.

(a) The Texas Music Foundation account is established as a separate account in the general revenue

fund. The account is composed of money deposited to the credit of the account under Section 504.639, Transportation Code. Money in the account may be used only for the purposes of this section.

(b) The Music, Film, Television, and Multimedia Office in the governor's office shall administer the account. The agency may spend money credited to the account only to make grants to benefit music-related educational and community programs sponsored by nonprofit organizations based in this state. An administration fee of $5 per license plate shall be retained by the Music, Film, Television, and Multimedia Office for performance of administrative duties.

(Enacted by Acts 2003, 78th Leg., ch. 1320 (H.B. 2971), § 8, effective September 1, 2003.)

Sec. 7.028. Limitation on Compliance Monitoring.

(a) Except as provided by Section 29.001(5), 29.010(a), 39.056, or 39.057, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, Subchapter A, Chapter 37, or Section 38.003, and the use of funds provided for such a program under Subchapter C, Chapter 42, only as necessary to ensure:

(1) compliance with federal law and regulations;

(2) financial accountability, including compliance with grant requirements; and

(3) data integrity for purposes of:

(A) the Public Education Information Management System (PEIMS); and

(B) accountability under Chapter 39.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school has primary responsibility for ensuring that the district or school complies with all applicable requirements of state educational programs.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 4, effective September 1, 2003 (renumbered from Sec. 7.027); am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(9), effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 2, effective June 19, 2009.)

Sec. 7.029. Memorandum of Understanding Regarding Exchange of Information for Students in Foster Care.

(a) The agency and the Department of Family and Protective Services shall enter into a memorandum of understanding regarding the exchange of information as appropriate to facilitate the department's evaluation of educational outcomes of students in foster care. The memorandum of understanding must require:

(1) the department to provide the agency each year with demographic information regarding individual students who during the preceding school year were in the conservatorship of the department following an adversarial hearing under Section 262.201, Family Code; and

(2) the agency, in a manner consistent with federal law, to provide the department with aggregate information regarding educational outcomes of students for whom the agency received demographic information under Subdivision (1).

(b) For purposes of Subsection (a)(2), information regarding educational outcomes includes information relating to student academic achievement, graduation rates, school attendance, disciplinary actions, and receipt of special education services.

(b-1) To facilitate implementation of Subsection (a)(2), the agency shall, in the manner established by commissioner rule, collect data through the Public Education Information Management System (PEIMS) as to the foster care status of students.

(c) The department may authorize the agency to provide education research centers established under Section 1.005 with demographic information regarding individual students received by the agency in accordance with Subsection (a)(1), as appropriate to allow the centers to perform additional analysis regarding educational outcomes of students in foster care. Any use of information regarding individual students provided to a center under this subsection must be approved by the department.

(d) Nothing in this section may be construed to:

(1) require the agency or the department to collect or maintain additional information regarding students in foster care; or

(2) allow the release of information regarding an individual student in a manner not permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or another state or federal law.

(Enacted by Acts 2009, 81st Leg., ch. 1372 (S.B. 939), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 758 (S.B. 833), § 1, effective June 14, 2013.)

Sec. 7.030. Advisory Committee Participation.

(a) Notwithstanding any other provision of law, the agency is not required to participate in the Advisory Committee on Reducing Drug Demand.

(b) This section does not prohibit the agency from participating in the advisory committee specified under Subsection (a).

(Enacted by Acts 2011, 82nd Leg., ch. 1176 (H.B. 3278), § 1, effective June 17, 2011.)

Sec. 7.031. Grants.

(a) The agency may seek, accept, and distribute grants awarded by the federal government or any other public or private entity for the benefit of public education, subject to the limitations or conditions imposed by the terms of the grants or by other law.

(b) Unless otherwise prohibited by federal law, the commissioner may determine, solely for purposes of the program's eligibility to receive federal grant funds, for the purpose of technology services and support, that a Head Start program operated in this state by a school district or a community-based organization serves the function of an elementary school by providing elementary education at one or more program facilities.

(c) A determination by the commissioner under Subsection (b):

(1) does not entitle a Head Start program to receive state funds for which the program would not otherwise be eligible;

(2) may not reduce the amount of federal grant funds available for school districts and open-enrollment charter schools; and

(3) may not be appealed.

(Am. Acts 2009, 81st Leg., ch. 603 (H.B. 635), § 1, effective June 19, 2009.)

Sec. 7.037. Reporting Schedule.

(a) To the extent possible, the Texas Education Agency shall develop and maintain a comprehensive schedule that addresses each reporting requirement generally applicable to a school district, including requirements imposed by a state agency or entity other than the Texas Education Agency, and that specifies the date by which a school district must comply with each requirement.

(b) A state agency that requires a school district to periodically report information to that agency shall provide the Texas Education Agency with information regarding the reporting requirement as necessary to enable the Texas Education Agency to develop and maintain the schedule required by Subsection (a).

(c) The Texas Education Agency shall determine the appropriate format of the schedule required by Subsection (a) and the manner in which the schedule is made readily accessible to school districts.

(Enacted by Acts 2009, 81st Leg., ch. 1156 (H.B. 3041), § 1, effective September 1, 2009.)

Sec. 7.038. [Expires September 1, 2015] Professional Employee Salary Information.

(a) The agency shall collect information from school districts regarding salaries paid to employees entitled to the minimum monthly salary under Section 21.402.

(b) The agency shall provide for public use of the information collected under Subsection (a) in summary form on the agency's Internet website in a manner that indicates, by school district, the average salaries of employees to whom Subsection (a) applies by position and for classroom teachers, also by subject and grade level.

(c) The agency shall use the data collected under Subsection (a) regarding salaries paid to classroom teachers to conduct a cost-of-living salary comparability analysis in each region of the state to determine how classroom teacher salaries compare to salaries in similar professions. The commissioner shall delineate the geographic boundaries of the regions of the state and designate the professions that constitute similar professions for purposes of conducting the salary comparability analysis under this subsection. Not later than December 1, 2014, the agency shall prepare and deliver a report of the salary comparability analysis conducted under this subsection to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing legislative committee with primary jurisdiction over public education. The agency shall post a copy of the report on the agency's Internet website.

(d) The agency shall collect data and conduct the cost-of-living salary comparability analysis under this section using only available funds and resources from public or private sources.

(e) This section expires September 1, 2015.

(Enacted by Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 1, effective September 1, 2013.)

Sec. 7.040. Postsecondary Education and Career Opportunities.

(a) The agency shall prepare information comparing institutions of higher education in this state and post the information on the agency's Internet website. Information prepared under this section shall be given to a public school student who requests the information. The information shall:

(1) identify postsecondary education and career opportunities, including information that states the benefits of four-year and two-year higher education programs, postsecondary technical education, skilled workforce careers, and career education programs;

(2) compare each institution of higher education with other institutions regarding:

(A) the relative cost of tuition;

(B) the retention rate of students;

(C) the graduation rate of students;

(D) the average student debt;

(E) the loan repayment rate of students; and

(F) the employment rate of students;

(3) identify the state's future workforce needs, as projected by the Texas Workforce Commission; and

(4) include annual wage information for the top 10 highest demand jobs in this state, as identified by the Texas Workforce Commission.

(b) The agency shall collaborate with the Texas Higher Education Coordinating Board and the Texas Workforce Commission to obtain the information required under Subsection (a). The agency shall incorporate the use of existing materials and develop new materials to be provided to counselors, students, and parents regarding institutions of higher education.

(c) Each institution of higher education shall include on its Internet website, in a prominent location that is not more than three hyperlinks from the website's home page, a link to the information posted on the agency's Internet website under Subsection (a).

(Enacted by Acts 2013, 83rd Leg., ch. 299 (H.B. 1296), § 1, effective June 14, 2013.)

SUBCHAPTER C
COMMISSIONER OF EDUCATION

Sec. 7.051. Selection of the Commissioner.

The governor, with the advice and consent of the senate, shall appoint the commissioner of education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.052. Term of Office.

The commissioner serves a term of office of four years commensurate with the term of the governor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.053. Removal from Office.

The governor, with the advice and consent of the senate, may remove the commissioner from office as provided by Section 9, Article XV, Texas Constitution.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.054. Qualification.

The commissioner must be a citizen of the United States.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.055. Commissioner of Education Powers and Duties.

(a) The commissioner has the powers and duties provided by Subsection (b).

(b) (1) The commissioner shall serve as the educational leader of the state.

(2) The commissioner shall serve as executive officer of the agency and as executive secretary of the board.

(3) The commissioner shall carry out the duties imposed on the commissioner by the board or the legislature.

(4) The commissioner shall prescribe a uniform system of forms, reports, and records necessary to fulfill the reporting and recordkeeping requirements of this title.

(5) The commissioner may delegate ministerial and executive functions to agency staff and may employ division heads and any other employees and clerks to perform the duties of the agency.

(6) The commissioner shall adopt an annual budget for operating the Foundation School Program as prescribed by Subsection (c).

(7) The commissioner may issue vouchers for the expenditures of the agency and shall examine and must approve any account to be paid out of the school funds before the comptroller may issue a warrant.

(8) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(7), effective June 17, 2011.]

(9) The commissioner shall have a manual published at least once every two years that contains Title 1 and this title, any other provisions of this code relating specifically to public primary or secondary education, and an appendix of all other state laws relating to public primary or secondary education and shall provide for the distribution of the manual as determined by the board.

(10) The commissioner may visit different areas of this state, address teachers' associations and educational gatherings, instruct teachers, and promote all aspects of education and may be reimbursed for necessary travel expenses incurred under this subdivision to the extent authorized by the General Appropriations Act.

(11) The commissioner may appoint advisory committees, in accordance with Chapter 2110, Government Code, as necessary to advise the commissioner in carrying out the duties and mission of the agency.

(12) The commissioner shall appoint an agency auditor.

(13) The commissioner may provide for reductions in the number of agency employees.

(14) The commissioner shall carry out duties relating to the investment capital fund under Section 7.024.

(15) The commissioner shall review and act, if necessary, on applications for waivers under Section 7.056.

(16) The commissioner shall carry out duties relating to regional education service centers as specified under Chapter 8.

(17) The commissioner shall distribute funds to open-enrollment charter schools as required under Subchapter D, Chapter 12.

(18) The commissioner shall adopt a recommended appraisal process and criteria on which to appraise the performance of teachers, a recommended appraisal process and criteria on which to appraise the performance of administrators, and a job description and evaluation form for use in evaluating school counselors, as provided by Subchapter H, Chapter 21.

(19) The commissioner shall coordinate and implement teacher recruitment programs under Section 21.004.

(20) The commissioner shall perform duties in connection with the certification and assignment of hearing examiners as provided by Subchapter F, Chapter 21.

(21) The commissioner shall carry out duties under the Texas Advanced Placement Incentive Program under Subchapter C, Chapter 28.

(22) The commissioner may adopt rules for optional extended year programs under Section 29.082.

(23) The commissioner shall monitor and evaluate prekindergarten programs and other child-care programs as required under Section 29.154.

(24) The commissioner, with the approval of the board, shall develop and implement a plan for the coordination of services to children with disabilities as required under Section 30.001.

(25) The commissioner shall develop a system to distribute to school districts or regional education service centers a special supplemental allowance for students with visual impairments as required under Section 30.002.

(26) The commissioner, with the assistance of the comptroller, shall determine amounts to be distributed to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf as provided by Section 30.003 and to the Texas Youth Commission as provided by Section 30.102.

(27) The commissioner shall establish a procedure for resolution of disputes between a school district and the Texas School for the Blind and Visually Impaired under Section 30.021.

(28) The commissioner shall perform duties relating to the funding, adoption, and purchase of instructional materials under Chapter 31.

(29) The commissioner may enter into contracts concerning technology in the public school system as authorized under Chapter 32.

(30) The commissioner shall adopt a recommended contract form for the use, acquisition, or lease with option to purchase of school buses under Section 34.009.

(31) The commissioner shall ensure that the cost of using school buses for a purpose other than the transportation of students to or from school is properly identified in the Public Education Information Management System (PEIMS) under Section 34.010.

(32) The commissioner shall perform duties in connection with the public school accountability system as prescribed by Chapter 39.

(33) [Repealed by Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 8(1), effective September 1, 1999.]

(34) The commissioner shall perform duties in connection with the equalized wealth level under Chapter 41.

(35) The commissioner shall perform duties in connection with the Foundation School Program as prescribed by Chapter 42.

(36) The commissioner shall establish advisory guidelines relating to the fiscal management of a school district and report annually to the board on the status of school district fiscal management as required under Section 44.001.

(37) The commissioner shall review school district audit reports as required under Section 44.008.

(38) The commissioner shall perform duties in connection with the guaranteed bond program as prescribed by Subchapter C, Chapter 45.

(39) The commissioner shall cooperate with the Texas Higher Education Coordinating Board in connection with the Texas partnership and scholarship program under Subchapter Q, Chapter 61.

(40) The commissioner shall suspend the certificate of an educator or permit of a teacher who violates Chapter 617, Government Code.

(41) The commissioner shall adopt rules relating to extracurricular activities under Section 33.081 and approve or disapprove University Interscholastic League rules and procedures under Section 33.083.

(c) The budget the commissioner adopts under Subsection (b) for operating the Foundation School

Program must be in accordance with legislative appropriations and provide funds for the administration and operation of the agency and any other necessary expense. The budget must designate any expense of operating the agency or operating a program for which the board has responsibility that is paid from the Foundation School Program. The budget must designate program expenses that may be paid out of the foundation school fund, other state funds, fees, federal funds, or funds earned under interagency contract. Before adopting the budget, the commissioner must submit the budget to the board for review and, after receiving any comments of the board, present the operating budget to the governor and the Legislative Budget Board. The commissioner shall provide appropriate information on proposed budget expenditures to the comptroller to assure that all payments are paid from the appropriate funds in a timely and efficient manner. (Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 6, § 6.01, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 10, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.01, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 8, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.001(a), effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.002(3), effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(7), effective June 17, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 2, effective July 19, 2011; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 1, effective June 14, 2013.)

Sec. 7.056. Waivers and Exemptions.

(a) Except as provided by Subsection (e), a school campus or district may apply to the commissioner for a waiver of a requirement, restriction, or prohibition imposed by this code or rule of the board or commissioner.

(b) A school campus or district seeking a waiver must submit a written application to the commissioner not later than the 31st day before the campus or district intends to take action requiring a waiver. The application must include:

(1) a written plan approved by the board of trustees of the district that states the achievement objectives of the campus or district and the inhibition imposed on those objectives by the requirement, restriction, or prohibition; and

(2) written comments from the campus- or district-level committee established under Section 11.251.

(c) If the commissioner objects to an application for a waiver, the commissioner must notify the school campus or district in writing that the application is denied not later than the 30th day after the date on which the application is received. If the commissioner does not notify the school campus or district of an objection within that time, the application is considered granted.

(d) A waiver granted under this section is effective for the period stated in the application, which may not exceed three years. A school campus or district for which a requirement, restriction, or prohibition is waived under this section for a period of three years may receive an exemption from that requirement, restriction, or prohibition at the end of that period if the campus or district has fulfilled the achievement objectives stated in the application. The exemption remains in effect until the commissioner determines that achievement levels of the campus or district have declined.

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) essential knowledge or skills under Section 28.002 or high school graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, E, and J, Chapter 39;

(C) extracurricular activities under Section 33.081 or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812;

(D) health and safety under Chapter 38;

(E) purchasing under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at-risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

(J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;

(K) special education programs under Subchapter A, Chapter 29;

(L) bilingual education programs under Subchapter B, Chapter 29; or

(M) the requirements for the first day of instruction under Section 25.0811.

(f) A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.102 or 39.103 may receive an exemption or waiver under this section from any law or rule other than:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) a requirement imposed by federal law or rule;

(3) a requirement, restriction, or prohibition imposed by state law or rule relating to:

(A) public school accountability as provided by Subchapters B, C, D, E, and J, Chapter 39; or

(B) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22; or

(4) selection of instructional materials under Chapter 31.

(g) In a manner consistent with waiver authority granted to the commissioner by the United States Department of Education, the commissioner may grant a waiver of a state law or rule required by federal law, including Subchapter A, B, or C, Chapter 29. Before exercising any waiver authority under this subsection, the commissioner shall notify the Legislative Budget Board and the office of budget and planning in the governor's office.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 812 (S.B. 658), § 2, effective June 17, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 9, § 9.01, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 3, effective June 19, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 3, effective July 19, 2011.)

Sec. 7.0561. Texas High Performance Schools Consortium.

(a) In this section, "consortium" means the Texas High Performance Schools Consortium established under this section.

(b) The Texas High Performance Schools Consortium is established to inform the governor, legislature, and commissioner concerning methods for transforming public schools in this state by improving student learning through the development of innovative, next-generation learning standards and assessment and accountability systems.

(c) From among school districts and eligible open-enrollment charter schools that apply using the form and in the time and manner established by commissioner rule, the commissioner may select not more than 20 participants for the consortium. The districts selected by the commissioner must represent a range of district types, sizes, and diverse student populations, as determined by the commissioner in accordance with commissioner rule. To be eligible to participate in the consortium, an open-enrollment charter school must have been awarded an exemplary distinction designation under Subchapter G, Chapter 39, during the preceding school year.

(d) The number of students enrolled in consortium participants may not be greater than a number equal to five percent of the total number of students enrolled in public schools in this state according to the most recent agency data.

(e) The application process under Subsection (c) must require school districts and open-enrollment charter schools applying to participate in the consortium to submit a detailed plan designed to both support improved instruction of and learning by students and provide evidence of the accurate assessment of the quality of learning on campuses. The plan submitted by a school district may designate the entire district or one or more district campuses as proposed consortium participants. The plan submitted by a district or open-enrollment charter school must include:

(1) a clear description of each assessed curricular goal included in the learning standards adopted in accordance with Subsection (f)(2);

(2) a plan for acquiring resources to support teachers in improving student learning;

(3) a description of any waiver of an applicable prohibition, requirement, or restriction the district or charter school would want to apply for; and

(4) any other provisions required by the commissioner.

(f) In consultation with interested school districts, open-enrollment charter schools, and other appropriate interested persons, the commissioner shall adopt rules applicable to the consortium, according to the following principles for a next generation of higher performing public schools:

(1) engagement of students in digital learning, including engagement through the use of electronic textbooks and instructional materials adopted under Subchapters B and B-1, Chapter 31, and courses offered through the state virtual school network under Subchapter 30A;

(2) emphasis on learning standards that focus on high-priority standards identified in coordination with districts and charter schools participating in the consortium;

(3) use of multiple assessments of learning capable of being used to inform students, parents,

districts, and charter schools on an ongoing basis concerning the extent to which learning is occurring and the actions consortium participants are taking to improve learning; and

(4) reliance on local control that enables communities and parents to be involved in the important decisions regarding the education of their children.

(g) The commissioner shall convene consortium leaders periodically to discuss methods to transform learning opportunities for all students, build cross-district and cross-school support systems and training, and share best practices tools and processes.

(h) The commissioner or a school district or open-enrollment charter school participating in the consortium may, for purposes of this section, accept gifts, grants, or donations from any source, including a private entity or governmental entity.

(i) To cover the costs of administering the consortium, the commissioner may charge a fee to a school district or open-enrollment charter school participating in the consortium.

(j) **[Expires January 1, 2018]** With the assistance of the school districts and open-enrollment charter schools participating in the consortium, the commissioner shall submit reports concerning the performance and progress of the consortium to the governor and the legislature not later than December 1, 2012, and not later than December 1, 2014. The report submitted not later than December 1, 2012, must include any recommendation by the commissioner concerning legislative authorization for the commissioner to waive a prohibition, requirement, or restriction that applies to a consortium participant. That report must also include a plan for an effective and efficient accountability system for consortium participants that balances academic excellence and local values to inspire learning and, at the state level, contingent on any necessary waiver of federal law, may incorporate use of a stratified random sampling of students or other objective methodology to hold consortium participants accountable while attempting to reduce the number of state assessment instruments that are required to be administered to students. The commissioner shall seek a federal waiver, to any extent necessary, to prepare for implementation of the plan if enacted by the legislature. This subsection expires January 1, 2018.

(Enacted by Acts 2011, 82nd Leg., ch. 666 (S.B. 1557), § 1, effective June 17, 2011.)

Sec. 7.057. Appeals.

(a) Except as provided by Subsection (e), a person may appeal in writing to the commissioner if the person is aggrieved by:

(1) the school laws of this state; or

(2) actions or decisions of any school district board of trustees that violate:

(A) the school laws of this state; or

(B) a provision of a written employment contract between the school district and a school district employee, if a violation causes or would cause monetary harm to the employee.

(a-1) A person is not required to appeal to the commissioner before pursuing a remedy under a law outside of Title 1 or this title to which Title 1 or this title makes reference or with which Title 1 or this title requires compliance.

(b) Except as provided by Subsection (c), the commissioner after due notice to the parties interested shall, not later than the 180th day after the date an appeal under Subsection (a) is filed, hold a hearing and issue a decision without cost to the parties involved. In conducting a hearing under this subsection, the commissioner has the same authority relating to discovery and conduct of a hearing as a hearing examiner has under Subchapter F, Chapter 21. This section does not deprive any party of any legal remedy.

(c) In an appeal against a school district, the commissioner shall, not later than the 240th day after the date the appeal is filed, issue a decision based on a review of the record developed at the district level under a substantial evidence standard of review. The parties to the appeal may agree in writing to extend, by not more than 60 days, the date by which the commissioner must issue a decision under this subsection. A school district's disclosure of the record to the commissioner under this subsection is not an offense under Section 551.146, Government Code.

(d) A person aggrieved by an action of the agency or decision of the commissioner may appeal to a district court in Travis County. An appeal must be made by serving the commissioner with citation issued and served in the manner provided by law for civil suits. The petition must state the action or decision from which the appeal is taken. At trial, the court shall determine all issues of law and fact, except as provided by Section 33.081(g).

(e) This section does not apply to:

(1) a case to which Subchapter G, Chapter 21, applies; or

(2) a student disciplinary action under Chapter 37.

(f) In this section:

(1) "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument.

(2) "School laws of this state" means Title 1 and this title and rules adopted under those titles.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 895 (H.B. 3463), § 1, effective June 14, 2001; am. Acts 2009, 81st Leg., ch. 1111 (H.B. 829), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 371 (H.B. 2952), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1111 (H.B. 829), § 2 provides: "Section 7.057(b), Education Code, as amended by this Act, applies only to an appeal to the commissioner of education filed on or after the effective date of this Act [June 19, 2009]. An appeal to the commissioner of education filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and that law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 371 (H.B. 2952), § 2 provides: "The change in law made by this Act applies only to an appeal filed on or after the effective date of this Act [June 14, 2013]. An appeal filed before the effective date of this Act is governed by the law in effect at the time the appeal was filed, and the former law is continued in effect for that purpose."

Sec. 7.058. Research on Mathematics Skills Acquisition and Program Effectiveness.

From funds appropriated for the purpose, the commissioner shall award to one or more institutions that have demonstrated an ability to conduct science-based research on effective instructional strategies that improve student performance in mathematics a grant to be used to:

(1) develop and identify research on mathematics skills acquisition and student learning in mathematics;

(2) monitor the effectiveness of professional development institutes under Section 21.455 based on performance in mathematics by the students of teachers who have attended an institute;

(3) examine the effect of professional development institutes on the classroom performance of teachers who have attended an institute;

(4) identify common practices used at high-performing school campuses that lead to improved student performance in mathematics; and

(5) develop research on cognitive development in children concerning mathematics skills development.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 3, effective September 1, 2001.)

Sec. 7.059. Mathematics Homework and Grading Service.

(a) From funds appropriated for the purpose, the commissioner shall help make available services that assist teachers in providing and grading mathematics homework assignments. The services may also assist teachers in providing and grading student examinations.

(b) In helping make the services described by Subsection (a) available, the commissioner shall consider all methods available through advanced technology, especially methods using the Internet, to distribute mathematics homework assignments and to provide immediate assessment of a student's work on the assignment.

(c) Each homework assignment offered through the service:

(1) must be created with consideration for the underlying mathematical skills required to be taught at the grade level for which the assignment is designed;

(2) may be based on a step-by-step procedure for solving mathematical problems provided by the assignment that may be adapted to individual student and instructor needs;

(3) may be accompanied by a solution to each mathematical problem assigned;

(4) may be accompanied by other pedagogically valuable material appropriate for a particular student; and

(5) to the extent possible, should correlate to an instructional program or programs being used in classrooms in this state.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 3, effective September 1, 2001.)

Sec. 7.060. Reducing Paperwork.

(a) At least once each even-numbered year, the commissioner shall review and, to the greatest extent practicable, reduce written reports and other paperwork required of a school district by the agency.

(b) The commissioner shall adopt a policy that limits written reports and other paperwork that a principal or classroom teacher may be required by the agency to complete.

(c) Notwithstanding any other law, a school district shall submit only in electronic format all reports required to be submitted to the agency under this code. The agency shall prescribe the electronic format to be used by a school district submitting a report to the agency.

(Enacted by Acts 2005, 79th Leg., ch. 723 (S.B. 493), § 1, effective June 17, 2005; am. Acts 2011, 82nd Leg., ch. 668 (S.B. 1618), § 1, effective September 1, 2011.)

Sec. 7.062. Science Laboratory Grant Program.

(a) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided

by the district's average daily attendance as determined under Section 42.005.

(b) The commissioner shall establish a program to provide competitive grants to school districts for the purpose of constructing or renovating high school science laboratories.

(c) Except as otherwise provided by this subsection, if the commissioner certifies that the amount appropriated for a state fiscal year for purposes of Subchapters A and B, Chapter 46, exceeds the amount to which school districts are entitled under those subchapters for that year, the commissioner shall use the excess funds, in an amount not to exceed $20 million in any state fiscal year, for the purpose of making grants under this section. The use of excess funds under this subsection has priority over any provision of Chapter 42 that permits or directs the use of excess foundation school program funds, including Sections 42.2517, 42.2521, 42.2522, and 42.2531. The commissioner is required to use excess funds as provided by this subsection only if the commissioner is not required to reduce the total amount of state funds allocated to school districts under Section 42.253(h).

(d) The commissioner shall adopt rules necessary to implement the program, including rules addressing eligibility, application procedures, and accountability for use of grant funds.

(e) The rules must:

(1) limit the amount of assistance provided through a grant to not more than:

(A) for a construction project, $200 per square foot of the science laboratory to be constructed; or

(B) for a renovation project, $100 per square foot of the science laboratory to be renovated;

(2) require a school district to demonstrate, as a condition of eligibility for a grant, that the existing district science laboratories are insufficient in number to comply with the curriculum requirements imposed for the distinguished level of achievement under the foundation high school program under Section 28.025; and

(3) provide for ranking school districts that apply for grants on the basis of wealth per student and giving priority in the award of grants to districts with low wealth per student.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 3, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 2(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 2(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 7.063. Person First Respectful Language Promotion.

The commissioner shall ensure that the agency uses the terms and phrases listed as preferred under the person first respectful language initiative in Chapter 392, Government Code, when proposing, adopting, or amending the agency's rules, reference materials, publications, and electronic media.

(Enacted by Acts 2011, 82nd Leg., ch. 272 (H.B. 1481), § 4, effective September 1, 2011.)

Sec. 7.064. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 5] Career and Technology Consortium.

(a) The commissioner shall investigate available options for the state to join a consortium of states for the purpose of developing sequences of academically rigorous career and technology courses in career areas that are high-demand, high-wage career areas in this state.

(b) The curricula for the courses must include the appropriate essential knowledge and skills adopted under Subchapter A, Chapter 28.

(c) If the commissioner determines that joining a consortium of states for this purpose would be beneficial for the educational and career success of students in the state, the commissioner may join the consortium on behalf of the state.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 3, effective June 10, 2013.)

Sec. 7.064. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 1282] Teaching and Learning Conditions Survey.

(a) The commissioner shall develop an online survey to be administered statewide at least biennially to superintendents, principals, supervisors, classroom teachers, counselors, and other appropriate full-time professional employees who are required to hold a certificate issued under Subchapter B, Chapter 21.

(b) In developing the survey under this section, the commissioner shall ensure that the survey is designed to elicit information relating to the following issues:

(1) teaching and learning conditions as predictors of student achievement and growth;

(2) the relationship between teaching and learning conditions and teacher retention;

(3) the influence of school leadership on teaching and learning conditions, including:

(A) meaningful involvement of teachers in determining professional development needs;

(B) meaningful involvement of teachers in campus decisions and initiatives;

(C) support for teachers in student disciplinary matters; and

(D) limiting required meetings for and noninstructional duties of teachers;

(4) the relationship between teaching and learning conditions and student attendance and graduation;

(5) the appropriate time during the day for collaborative instructional planning;

(6) facilities resources needs; and

(7) other supports needed for educators to be successful in the classroom.

(c) The commissioner shall contract with a third-party entity with appropriate research and evaluation expertise to administer the survey required by this section. The third-party survey administrator shall collect responses and protect the identity of the respondents. The third-party survey administrator shall provide the survey responses to the commissioner or a person designated by the commissioner not later than the 60th day after the date the survey is administered.

(d) After the administration of each survey, the commissioner shall:

(1) make the survey results available to the public; and

(2) provide the survey results to school districts and campuses.

(e) Each school district and campus shall use the survey results:

(1) to review and revise, as appropriate, district-level or campus-level improvement plans in the manner provided under Subchapter F, Chapter 11; and

(2) for other purposes, as appropriate to enhance the district and campus learning environment.

(f) The commissioner shall use the survey results to develop, review, and revise:

(1) agency professional development offerings;

(2) agency initiatives aimed at teacher retention; and

(3) standards for principals and superintendents.

(g) The commissioner shall carry out duties under this section, including contracting for the administration of the survey, using only available funds and resources from public and private sources.

(Enacted by Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 2, effective September 1, 2013.)

SUBCHAPTER D
STATE BOARD OF EDUCATION

Sec. 7.101. Composition.

(a) The State Board of Education is composed of 15 members elected from districts.

(b) Members of the board are elected at biennial general elections held in compliance with the Election Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 72 (H.B. 600), § 3, effective August 29, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 72 (H.B. 600), § 4 provides: "The districts established by this Act apply to the election of the members of the State Board of Education beginning with the primary and general elections in 2012 for members of the board in 2013. This Act does not affect the membership or districts of the board before January 1, 2013."

Sec. 7.102. State Board of Education Powers and Duties.

(a) The board may perform only those duties relating to school districts or regional education service centers assigned to the board by the constitution of this state or by this subchapter or another provision of this code.

(b) The board has the powers and duties provided by Subsection (c), which shall be carried out with the advice and assistance of the commissioner.

(c) (1) The board shall develop and update a long-range plan for public education.

(2) The board may enter into contracts relating to or accept grants for the improvement of educational programs specifically authorized by statute.

(3) The board may accept a gift, donation, or other contribution on behalf of the public school system or agency and, unless otherwise specified by the donor, may use the contribution in the manner the board determines.

(4) The board shall establish curriculum and graduation requirements.

(5) The board shall establish a standard of performance considered satisfactory on student assessment instruments.

(6) The board may create special-purpose school districts under Chapter 11.

(7) The board shall provide for a training course for school district trustees under Section 11.159.

(8) The board shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter as required by Subchapter B, Chapter 12, and may place on probation or revoke a home-rule school district charter as provided by that subchapter.

(9) The board may grant an open-enrollment charter or approve a charter revision as provided by Subchapter D, Chapter 12.

(10) The board shall adopt rules establishing criteria for certifying hearing examiners as provided by Section 21.252.

(11) The board shall adopt rules to carry out the curriculum required or authorized under Section 28.002.

(12) The board shall establish guidelines for credit by examination under Section 28.023.

(13) The board shall adopt transcript forms and standards for differentiating high school programs for purposes of reporting academic achievement under Section 28.025.

(14) The board shall adopt guidelines for determining financial need for purposes of the Texas Advanced Placement Incentive Program under Subchapter C, Chapter 28, and may approve payments as provided by that subchapter.

(15) The board shall adopt criteria for identifying gifted and talented students and shall develop and update a state plan for the education of gifted and talented students as required under Subchapter D, Chapter 29.

(16) [Repealed by Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(1), effective September 1, 2013.]

(17) The board shall adopt rules relating to community education development projects as required under Section 29.257.

(18) The board may approve the plan to be developed and implemented by the commissioner for the coordination of services to children with disabilities as required under Section 30.001.

(19) The board shall establish a date by which each school district and state institution shall provide to the commissioner the necessary information to determine the district's share of the cost of the education of a student enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as required under Section 30.003 and may adopt other rules concerning funding of the education of students enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf as authorized under Section 30.003.

(20) The board shall adopt rules prescribing the form and content of information school districts are required to provide concerning programs offered by state institutions as required under Section 30.004.

(21) The board shall adopt rules concerning admission of students to the Texas School for the Deaf as required under Section 30.057.

(22) The board shall carry out powers and duties related to regional day school programs for the deaf as provided under Subchapter D, Chapter 30.

(23) The board shall adopt and purchase or license instructional materials as provided by Chapter 31 and adopt rules required by that chapter.

(24) The board shall develop and update a long-range plan concerning technology in the public school system as required under Section 32.001 and shall adopt rules and policies concerning technology in public schools as provided by Chapter 32.

(25) The board shall conduct feasibility studies related to the telecommunications capabilities of school districts and regional education service centers as provided by Section 32.033.

(26) The board shall appoint a board of directors of the center for educational technology under Section 32.034.

(27) [Repealed by Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 4.001(b), effective September 1, 2001.]

(28) The board shall approve a program for testing students for dyslexia and related disorders as provided by Section 38.003.

(29) The board shall perform duties in connection with the public school accountability system as prescribed by Chapter 39.

(30) The board shall perform duties in connection with the Foundation School Program as prescribed by Chapter 42.

(31) The board may invest the permanent school fund within the limits of the authority granted by Section 5, Article VII, Texas Constitution, and Chapter 43.

(32) The board shall adopt rules concerning school district budgets and audits of school district fiscal accounts as required under Subchapter A, Chapter 44.

(33) The board shall adopt an annual report on the status of the guaranteed bond program and may adopt rules as necessary for the administration of the program as provided under Subchapter C, Chapter 45.

(34) The board shall prescribe uniform bid blanks for school districts to use in selecting a depository bank as required under Section 45.206.

(d) The board may adopt rules relating to school districts or regional education service centers only as required to carry out the specific duties assigned to the board by the constitution or under Subsection (c).

(e) An action of the board to adopt a rule under this section is effective only if the board includes in the rule's preamble a statement of the specific authority under Subsection (c) to adopt the rule.

(f) Except as otherwise provided by this subsection, a rule adopted by the board under this section does not take effect until the beginning of the school year that begins at least 90 days after the date on

which the rule was adopted. The rule takes effect earlier if the rule's preamble specifies an earlier effective date and the reason for that earlier date and:

(1) the earlier effective date is a requirement of:

(A) a federal law; or

(B) a state law that specifically refers to this section and expressly requires the adoption of an earlier effective date; or

(2) on the affirmative vote of two-thirds of the members of the board, the board makes a finding that an earlier effective date is necessary.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 6, § 6.01, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 2, effective May 26, 1997; am. Acts 1999, 76th Leg., ch. 1482 (H.B. 3573), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.001(b), effective September 1, 2001; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 4, effective July 19, 2011; am. Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(1), effective September 1, 2013.)

Sec. 7.103. Eligibility for Membership.

(a) A person is not eligible for election to or service on the board if the person holds an office with this state or any political subdivision of this state.

(b) A person may not be elected from or serve in a district who is not a bona fide resident of the district with one year's continuous residence before election. A person is not eligible for election to or service on the board unless the person is a qualified voter of the district in which the person resides and is at least 26 years of age.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession, business, or association related to the operation of the board, may not serve as a member of the board or act as the general counsel to the board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.104. Terms.

(a) At each general election immediately following a decennial reapportionment of districts, one member shall be elected to the board from each district. Except as provided by Subsection (b), members of the board serve staggered terms of four years with the terms of eight members expiring on January 1 of one odd-numbered year and the terms of seven members expiring on January 1 of the next odd-numbered year.

(b) Seven members of the board elected at each general election following a decennial reapportionment of districts shall serve two-year terms and eight members shall serve four-year terms. Members shall draw lots to determine who serves which terms.

(c) If a position on the board becomes vacant, the governor shall fill the vacancy as soon as possible by appointing a qualified person from the affected district with the advice and consent of the senate.

(d) A vacancy that occurs at a time when it is impossible to place the name of a candidate for the unexpired term on the general election ballot is filled by appointment, as prescribed by Subsection (c).

(e) An appointment to a vacancy on the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointed member.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.105. Compensation and Reimbursement.

(a) A member of the board is not entitled to receive compensation.

(b) A member of the board is entitled to reimbursement of the member's expenses as provided by law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.106. Meetings.

(a) The board shall hold four meetings a year in Austin, Texas, on dates determined by the chair and may hold other meetings as may be called by the chair.

(b) In a manner that complies with Section 551.128, Government Code, the agency shall broadcast over the Internet live video and audio of each open meeting held by the board. Subsequently, the agency shall make available through the agency's Internet website archived video and audio for each meeting for which live video and audio was provided under this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 169 (H.B. 772), § 1, effective September 1, 2009.)

Sec. 7.107. Officers.

(a) The governor, with the advice and consent of the senate, shall appoint the chair from among the membership of the board. The chair serves a term of two years.

(b) At the board's first regular meeting after the election and qualification of new members, the board

shall organize, adopt rules of procedure, and elect by separate votes a vice chair and a secretary.

(c) A person who serves two consecutive terms as chair is ineligible to again serve as chair until four years have elapsed since the expiration of the second term.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.108. Prohibition on Political Contribution or Activity.

(a) A person interested in selling bonds of any type or a person engaged in manufacturing, shipping, selling, or advertising instructional materials commits an offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on the board.

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

(c) In this section:

(1) "Instructional material" has the meaning assigned by Section 31.002.

(2) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 5, effective July 19, 2011.)

Sec. 7.109. Designation As State Board for Career and Technology Education.

(a) The board is also the State Board for Career and Technology Education.

(b) The commissioner is the executive officer through whom the State Board for Career and Technology Education shall carry out its policies and enforce its rules.

(c) The State Board for Career and Technology Education may contract with the Texas Higher Education Coordinating Board or any other state agency to assume the leadership role and administrative responsibility of the State Board for Career and Technology Education for state level administration of technical-vocational education programs in public community colleges, public technical institutes, and other eligible public postsecondary institutions in this state.

(d) The State Board for Career and Technology Education may allocate funds appropriated to the board by the legislature or federal funds received by the board under the Carl D. Perkins Vocational Education Act (20 U.S.C. Section 2301 et seq.) or other federal law to an institution or program approved by the State Board of Education, the Texas Higher Education Coordinating Board, or another state agency specified by law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.110. Public Testimony.

The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 7.111. High School Equivalency Examinations.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 339]** The board shall provide for the administration of high school equivalency examinations.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1217]** The board shall provide for the administration of high school equivalency examinations, including administration by the Texas Military Department for students described by Subdivision (2)(C). A person who does not have a high school diploma may take the examination in accordance with rules adopted by the board if the person is:

(1) over 17 years of age;

(2) 16 years of age or older and:

(A) is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), and its subsequent amendments;

(B) a public agency providing supervision of the person or having custody of the person under a court order recommends that the person take the examination; or

(C) is enrolled in the Texas Military Department's Seaborne ChalleNGe Corps; or

(3) required to take the examination under a justice or municipal court order issued under Article 45.054(a)(1)(C), Code of Criminal Procedure.

(a-1) A person who does not have a high school diploma may take the examination in accordance with rules adopted by the board if the person is:

(1) over 17 years of age;

(2) 16 years of age or older and:

(A) is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), and its subsequent amendments;

(B) a public agency providing supervision of the person or having custody of the person under a court order recommends that the person take the examination; or

(C) is enrolled in the adjutant general's department's Seaborne ChalleNGe Corps; or

(3) required to take the examination under a court order.

(b) The board by rule shall establish and require payment of a fee as a condition to the issuance of a high school equivalency certificate and a copy of the scores of the examinations. The fee must be reasonable and designed to cover the administrative costs of issuing the certificate and a copy of the scores. The board may not require a waiting period between the date a person withdraws from school and the date the person takes the examination unless the period relates to the time between administrations of the examination.

(c) The board by rule shall develop and deliver high school equivalency examinations and provide for the administration of the examinations online. The rules must provide a procedure for verifying the identity of the person taking the examination.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 76 (H.B. 688), § 8, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1282 (S.B. 1472), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.002, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 17, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 818 (S.B. 776), § 1, effective June 17, 2005; am. Acts 2011, 82nd Leg., ch. 1078 (S.B. 1094), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 339 (H.B. 2058), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1217 (S.B. 1536), § 2.01, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1078 (S.B. 1094), § 2 provides: "This Act applies beginning with the 2011-2012 school year."

Acts 2013, 83rd Leg., ch. 339 (H.B. 2058), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 7.112. Representation of Publisher of Instructional Materials by Former Member of Board.

(a) A former member of the State Board of Education who is employed by or otherwise receives compensation from a publisher of instructional materials may not, before the second anniversary of the date on which the person last served as a member of the State Board of Education:

(1) confer with a member of the board of trustees of a school district concerning instructional materials published by that publisher; or

(2) appear at a meeting of the board of trustees on behalf of the publisher.

(b) A person who violates Subsection (a) commits an offense. An offense under this section is a Class A misdemeanor.

(c) In this section:

(1) "Compensation" means money, a service, or another thing of value or financial benefit received in return for or in connection with a service provided.

(2) "Instructional material" and "publisher" have the meanings assigned by Section 31.002.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 6—8, effective July 19, 2011.)

Sec. 7.113. Employers for Education Excellence Award.

(a) The board shall create the Employers for Education Excellence Award to honor employers that implement a policy to encourage and support employees who actively participate in activities of schools.

(b) An employer that meets the criteria described by this section may apply for consideration to receive the award.

(c) The board shall establish the following levels of recognition for employers:

(1) bronze for an employer that implements a policy to encourage and support employees who attend parent-teacher conferences;

(2) silver for an employer that:

(A) meets the requirements of bronze; and

(B) implements a policy to encourage and support employees who volunteer in school activities; and

(3) gold for an employer that:

(A) meets the requirements of silver; and

(B) implements a policy to encourage and support employees who participate in student mentoring programs in schools.

(d) The board shall establish criteria to certify businesses to receive the Employers for Education Excellence Award at the appropriate level of recognition. The commissioner shall review the applications submitted by employers under Subsection (b) and make recommendations to the board regarding businesses that should be recognized and the level at which a business should be recognized. The board may approve or modify the commissioner's recommendation.

(e) The board shall honor the recipient of an Employers for Education Excellence Award by presenting the recipient with a suitable certificate that includes the business's level of recognition and other appropriate information.

(Enacted by Acts 2007, 80th Leg., ch. 557 (S.B. 1433), § 1, effective June 15, 2007.)

CHAPTER 8
REGIONAL EDUCATION SERVICE CENTERS
[EXPIRES SEPTEMBER 1, 2019]

Subchapter A. General Provisions [Expires September 1, 2019]

Subchapter B. Powers and Duties [Expires September 1, 2019]

Subchapter C. Evaluation and Accountability [Expires September 1, 2019]

Subchapter D. Funding [Expires September 1, 2019]

SUBCHAPTER A
GENERAL PROVISIONS
[EXPIRES SEPTEMBER 1, 2019]

Sec. 8.001. [Expires September 1, 2019] Establishment.

(a) The commissioner shall provide for the establishment and operation of not more than 20 regional education service centers.

(b) Regional education service centers shall be located throughout the state so that each school district has the opportunity to be served by and to participate, on a voluntary basis, in a center that meets the accountability standards established by the commissioner.

(c) The commissioner may decide any matter concerning the operation or administration of the regional education service centers, including:

(1) the number and location of centers;

(2) the regional boundaries of centers; and

(3) the allocation among centers of state and federal funds administered by the agency.

(d) This chapter does not:

(1) limit a school district's freedom to purchase services from any regional education service center; or

(2) require a school district to purchase services from a regional education service center.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.002. [Expires September 1, 2019] Purpose.

Regional education service centers shall:

(1) assist school districts in improving student performance in each region of the system;

(2) enable school districts to operate more efficiently and economically; and

(3) implement initiatives assigned by the legislature or the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.003. [Expires September 1, 2019] Governance.

(a) Each regional education service center is gov-

erned by a board of directors composed of seven members.

(b) The commissioner shall adopt rules to provide for the local selection, appointment, and continuity of membership of regional education service center boards of directors.

(c) A vacancy on a regional education service center board of directors shall be filled by appointment by the remaining members of the board for the unexpired term.

(d) A member of the board is not entitled to compensation from the regional education service center but is entitled to reimbursement with center funds for necessary expenses incurred in performing duties as a board member.

(e) Each regional education service center board of directors shall develop policies to ensure the sound management and operation of the center consistent with Section 8.002. Subject to approval of the board of directors, regional education service centers shall offer programs and activities to school districts and campuses under Sections 8.051, 8.052, and 8.053.

(f) Each regional education service center board of directors shall adopt an annual budget for the following year after conducting a public hearing on the center's performance during the preceding year on standards established by the commissioner under Section 8.101.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.004. [Expires September 1, 2015] Executive Director.

The regional education service center board of directors shall employ an executive director. The selection and dismissal of the executive director is subject to the approval of the commissioner. The executive director is the chief executive officer of the regional education service center and may employ personnel as necessary to carry out the functions of the center.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.005. [Expires September 1, 2019] Exemption from Taxation.

A regional education service center and its employees are subject to or exempt from taxation in the same manner as a school district and school district employees.

(Enacted by Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.006. [Expires September 1, 2019] Immunity from Liability.

An employee or volunteer of a regional education service center is immune from liability to the same extent as an employee or volunteer of a school district.

(Enacted by Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.007. [Expires September 1, 2019] Transferability of Leave.

(a) A regional education service center shall accept personal leave accrued by a center employee as sick leave under state law by an employee who was formerly employed by the state.

(b) A school district or the state shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center not to exceed five days per year for each year of employment.

(Enacted by Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.008. [Expires September 1, 2019] Applicability of Certain Laws Relating to Political Activities.

A regional education service center and each center employee is subject to Chapter 556, Government Code, and for purposes of that chapter:

(1) the center is considered to be a state agency; and

(2) each center employee is considered to be a state employee.

(Enacted by Acts 2003, 78th Leg., ch. 350 (S.B. 929), § 1, effective September 1, 2003.)

Sec. 8.009. [Expires September 1, 2019] Applicability of Certain Laws Relating to Conflict of Interest.

(a) A member of the board of directors and the executive director of a regional education service center are each considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter a member of the board of directors and the executive director of a regional education service center are each considered to have a substantial interest in a business entity if a person related to the member or the executive director in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code.

(b) A regional education service center is considered to be a political subdivision for purposes of Section 131.903, Local Government Code.

(c) To the extent consistent with this section, if a law described by this section applies to a school district or the board of trustees of a school district, the law applies to a regional education service center and the board of directors and executive director of a regional education service center.

(Enacted by Acts 2003, 78th Leg., ch. 350 (S.B. 929), § 1, effective September 1, 2003.)

Sec. 8.010. [Expires September 1, 2019] Sunset Provision.

Regional education service centers are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the centers are abolished and this chapter expires September 1, 2019.

(Enacted by Acts 2011, 82nd Leg., ch. 1232 (S.B. 652), § 2.01, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 1279 (H.B. 1675), § 3.01, effective June 14, 2013.)

Sec. 8.011. [Expires September 1, 2019] Nepotism Prohibition.

For purposes of all employees of each regional education service center, the executive director and each member of the board of directors are public officials subject to Chapter 573, Government Code.

(Enacted by Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 7, effective September 1, 2007.)

SUBCHAPTER B
POWERS AND DUTIES
[EXPIRES SEPTEMBER 1, 2019]

Sec. 8.051. [Expires September 1, 2019] Core Services and Services to Improve Performance.

(a) Each regional education service center shall use funds distributed to the center under Section 8.121 to develop, maintain, and deliver services identified under this section to improve student and school district performance.

(b) Each regional education service center shall annually develop and submit to the commissioner for approval a plan for improvement. Each plan must include the purposes and description of the services the center will provide to:

(1) campuses assigned an unacceptable performance rating under Section 39.054;

(2) the lowest-performing campuses in the region; and

(3) other campuses.

(c) Each regional education service center shall provide services that enable school districts to operate more efficiently and economically.

(d) Each regional education service center shall maintain core services for purchase by school districts and campuses. The core services are:

(1) training and assistance in:

(A) teaching each subject area assessed under Section 39.023; and

(B) providing instruction in personal financial literacy as required under Section 28.0021;

(2) training and assistance in providing each program that qualifies for a funding allotment under Section 42.151, 42.152, 42.153, or 42.156;

(3) assistance specifically designed for a school district or campus assigned an unacceptable performance rating under Section 39.054;

(4) training and assistance to teachers, administrators, members of district boards of trustees, and members of site-based decision-making committees;

(5) assistance specifically designed for a school district that is considered out of compliance with state or federal special education requirements, based on the agency's most recent compliance review of the district's special education programs; and

(6) assistance in complying with state laws and rules.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997; am. Acts 1999, 76th Leg., ch. 1202 (S.B. 476), § 1, effective June 18, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 3, § 3.02, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 4, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 3, effective September 1, 2009.)

Sec. 8.052. [Expires September 1, 2019] State Initiatives.

As directed by the commissioner, each regional education service center shall, as necessary, use funds distributed under Section 8.123 to implement initiatives identified by the legislature.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.053. [Expires September 1, 2019] Additional Services.

In addition to the services provided under Section 8.051 and the initiatives implemented under Section 8.052, a regional education service center may:

(1) offer any service requested and purchased by any school district or campus in the state; and

(2) contract with a public or private entity for services under this subchapter, including the provision of continuing education courses and programs for educators.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.052); am. Acts 1999, 76th Leg., ch. 598 (S.B. 724), § 1, effective September 1, 1999.)

Sec. 8.0531. [Expires September 1, 2019] Instructional Materials Developed by a Collaboration of Regional Education Service Centers.

Notwithstanding any other provision of this subchapter or Section 8.001(c), instructional lessons developed as part of a curriculum management system by a regional education service center, acting alone or in collaboration with one or more other regional education service centers, shall be subject to the same review and adoption process as outlined in Section 31.022.

(Enacted by Acts 2013, 83rd Leg., ch. 617 (S.B. 1406), § 1, effective June 14, 2013.)

Sec. 8.054. [Expires September 1, 2019] Prohibition on Regulatory Function.

A regional education service center may not perform a regulatory function regarding a school district. This section does not prohibit a regional education service center from offering training or other assistance to a school district in complying with a state or federal law, rule, or regulation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.055. [Expires September 1, 2019] Regional Education Service Center Property.

(a) Each regional education service center may purchase or lease property or acquire property through lease-purchase and may incur debts for that purpose. Any transaction under this subsection is subject to the approval of the board of directors.

(b) Any transaction under this subsection involving real property is subject to the approval of the board of directors and the commissioner.

(c) Each regional education service center may dispose of property in the manner and on the terms that the board of directors determines.

(Enacted by Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.056. [Expires September 1, 2019] Limitation on Compensation for Certain Services.

A regional education service center that acts as a fiscal agent or broker in connection with an agreement between two school districts under Subchapter E, Chapter 41, may not, unless authorized in writing by the district receiving transferred funds in accordance with the agreement:

(1) be compensated by the districts in an amount that exceeds the administrative cost of providing the service; or

(2) otherwise retain for use by the center any amount other than the compensation permitted under Subdivision (1) from the funds transferred between the districts in accordance with the agreement.

(Enacted by Acts 2003, 78th Leg., ch. 350 (S.B. 929), § 2, effective September 1, 2003.)

Sec. 8.057. [Expires September 1, 2019] Assistance with Criminal History Record Information.

The agency may require a regional education service center to assist in collecting information needed for a criminal history record information review under Subchapter C, Chapter 22.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 1, effective June 15, 2007.)

SUBCHAPTER C
EVALUATION AND ACCOUNTABILITY
[EXPIRES SEPTEMBER 1, 2019]

Sec. 8.101. [Expires September 1, 2019] Performance Standards and Indicators.

The commissioner shall establish performance standards and indicators for regional education service centers that measure the achievement of the objectives in Section 8.002. Performance standards and indicators must include the following:

(1) student performance in districts served;

(2) district effectiveness and efficiency in districts served resulting from technical assistance and program support;

(3) direct services provided or regionally shared services arranged by the service center which produce more economical and efficient school operations;

(4) direct services provided or regionally shared services arranged by the service center which provide for assistance in core services; and

(5) grants received for implementation of state initiatives and the results achieved by the service center under the terms of the grant contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.102. [Expires September 1, 2015] Data Reporting.

Each regional education service center shall report audited or budgeted financial information and any other information requested by the commissioner for use in assessing the performance of the center. The commissioner shall develop a uniform system for regional education service centers to report audited financial data, to report information on the indicators adopted under Section 8.101, and to provide information on client satisfaction with services provided under Subchapter B.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.101).)

Sec. 8.103. [Expires September 1, 2015] Annual Evaluation.

The commissioner shall conduct an annual evaluation of each executive director and regional education service center. Each evaluation must include:

(1) an audit of the center's finances;

(2) a review of the center's performance on the indicators adopted under Section 8.101;

(3) a review of client satisfaction with services provided under Subchapter B; and

(4) a review of any other factor the commissioner determines to be appropriate.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.102).)

Sec. 8.104. [Expires September 1, 2019] Sanctions.

The commissioner shall develop a system of corrective actions to require of a regional education service center that the commissioner determines to be deficient in an accountability measure under Section 8.103. The actions must include, in increasing order of severity:

(1) conducting an on-site investigation of the center;

(2) requiring the center to send notice of each deficiency to each school district and campus in the center's region or served by the center the previous year;

(3) requiring the center to prepare for the commissioner's approval a plan to address each area of deficiency;

(4) appointing a master to oversee the operations of the center;

(5) replacing the executive director or board of directors; and

(6) in the case of deficient performance in two consecutive years, closing the center.

(Enacted by Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.103).)

SUBCHAPTER D
FUNDING
[EXPIRES SEPTEMBER 1, 2019]

Sec. 8.121. [Expires September 1, 2019] Funding for Core Services and Services to Improve Performance.

(a) Regional education service centers receive state financial support for services provided under Section 8.051 from money appropriated for the Foundation School Program. The commissioner shall distribute money to each regional education service center for basic costs of providing those services according to an annual allotment set by the commissioner based on:

(1) the minimum amount of money necessary for the operation of a center;

(2) an additional amount of money that reflects the size and number of campuses served by the center under Section 8.051; and

(3) an additional amount of money that reflects the impact of the geographic size of a center's service area on the cost of providing services under Section 8.051.

(b) [Repealed by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(a), effective September 1, 1999.]

(c) Each regional education service center shall use money distributed to it under this section for the provision of core services required under Section 8.051 or for payment of necessary administrative and operational expenses of the center related to the provision of those services.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 3, § 3.01(a), effective September 1, 1999.)

Sec. 8.122. [Expires September 1, 2019] Incentive Funding for District Efficiencies.

(a) The legislature may appropriate money from the foundation school fund to establish an incentive fund to encourage efficiency in the provision of

services by the system of regional education service centers.

(b) The commissioner may submit to each regular session of the legislature an incentive funding report and plan that:

(1) demonstrates that regional education service centers are providing the services required or permitted by law;

(2) defines efficiencies of scale in measurable terms;

(3) proposes the size of and payment schedule for the incentive fund; and

(4) establishes a method for documenting and computing efficiencies.

(c) The commissioner shall determine the method by which money appropriated under this section is distributed to regional education service centers.

(d) The board of trustees of a school district may delegate purchasing or other administrative functions to a regional education service center to the extent necessary to achieve efficiencies under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997.)

Sec. 8.123. [Expires September 1, 2019] Funding for State Initiatives.

(a) The legislature may appropriate money from the foundation school fund or other sources to implement initiatives identified by the legislature.

(b) The commissioner may adopt rules governing:

(1) the strategies, programs, projects, and regions eligible for funding under this section; and

(2) the amount of funds that may be distributed to a regional education service center for a specific initiative.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.122).)

Sec. 8.124. [Expires September 1, 2019] Innovative and Emergency Grants.

(a) The legislature may appropriate money from the foundation school fund or other sources for grants to regional education service centers. Money appropriated under this section shall be distributed to regional education service centers as:

(1) competitive grants for developing and implementing innovative regional strategies or programs; or

(2) emergency grants for providing adequate services under Section 8.051 to small and isolated school districts or, in extreme circumstances, other school districts.

(b) The commissioner may adopt rules governing:

(1) the strategies, programs, and regions eligible for funding under this section; and

(2) the amount of money that may be distributed to a regional education service center for a specific purpose.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.123).)

Sec. 8.125. [Expires September 1, 2019] Contracts for Grants.

Each regional education service center board of directors, under rules adopted by the commissioner, may enter into a contract for a grant from a public or private organization and may spend grant funds in accordance with the terms of the contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 1, effective May 26, 1997 (renumbered from Sec. 8.124).)

SUBTITLE C
LOCAL ORGANIZATION AND GOVERNANCE

CHAPTER 11
SCHOOL DISTRICTS

Subchapter A. General Provisions

Subchapter B. Independent School Districts

Subchapter C. Board of Trustees of Independent School District—General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 11.001. Accreditation.

Each school district must be accredited by the agency as provided by Subchapter C, Chapter 39.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 5, effective June 19, 2009.)

Sec. 11.002. Responsibility of School Districts for Public Education.

The school districts and charter schools created in accordance with the laws of this state have the primary responsibility for implementing the state's system of public education and ensuring student performance in accordance with this code.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.003. Administrative Efficiency.

(a) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.03, effective September 1, 2009.]

(b) Each regional education service center shall:

(1) notify each school district served by the center regarding the opportunities available through the center for cooperative shared services arrangements within the center's service area; and

(2) evaluate the need for cooperative shared services arrangements within the center's service area and consider expanding center-sponsored cooperative shared services arrangements.

(c) Each regional education service center shall assist a school district board of trustees in entering into an agreement with another district or political subdivision, a regional education service center, or

an institution of higher education as defined by Section 61.003, for a cooperative shared services arrangement regarding administrative services, including transportation, food service, purchasing, and payroll functions.

(d) The commissioner may require a district to enter into a cooperative shared services arrangement for administrative services if the commissioner determines:

(1) that the district has failed to satisfy a financial accountability standard as determined by commissioner rule under Subchapter D, Chapter 39; and

(2) that entering into a cooperative shared services arrangement would:

(A) enable the district to enhance its performance on the financial accountability standard identified under Subdivision (1); and

(B) promote the efficient operation of the district.

(e) The commissioner may require an open-enrollment charter school to enter into a cooperative shared services arrangement for administrative services if the commissioner determines, after an audit conducted under Section 12.1163, that such a cooperative shared services arrangement would promote the efficient operation of the school.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 6, effective June 19, 2009.)

SUBCHAPTER B
INDEPENDENT SCHOOL DISTRICTS

Sec. 11.011. Organization.

The board of trustees of an independent school district, the superintendent of the district, the campus administrators, and the district- and campus-level committees established under Section 11.251 shall contribute to the operation of the district in the manner provided by this code and by the board of trustees of the district in a manner not inconsistent with this code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
BOARD OF TRUSTEES OF INDEPENDENT SCHOOL DISTRICT—GENERAL PROVISIONS

Sec. 11.051. Governance of Independent School District; Number of Trustees.

(a) An independent school district is governed by a board of trustees who, as a body corporate, shall:

(1) oversee the management of the district; and

(2) ensure that the superintendent implements and monitors plans, procedures, programs, and systems to achieve appropriate, clearly defined, and desired results in the major areas of district operations.

(a-1) Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting. The board shall provide the superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting.

(b) The board consists of the number of members that the district had on September 1, 1995.

(c) A board of trustees that has three or five members may by resolution increase the membership to seven. A board of trustees that votes to increase its membership must consider whether the district would benefit from also adopting a single-member election system under Section 11.052. A resolution increasing the number of trustees takes effect with the second regular election of trustees that occurs after the adoption of the resolution. The resolution must provide for a transition in the number of trustees so that when the transition is complete, trustees are elected as provided by Section 11.059.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 1, effective September 1, 2007.)

Sec. 11.052. Single-Member Trustee Districts.

(a) Except as provided by Subsection (b), the board of trustees of an independent school district, on its own motion, may order that trustees of the district are to be elected from single-member trustee districts or that not fewer than 70 percent of the members of the board of trustees are to be elected from single-member trustee districts with the remaining trustees to be elected from the district at large.

(b) If a majority of the area of an independent school district is located in a county with a population of less than 10,000, the board of trustees of the district, on its own motion, may order that trustees of the district are to be elected from single-member trustee districts or that not fewer than 50 percent of the members of the board of trustees are to be elected from single-member trustee districts with

the remaining trustees to be elected from the district at large.

(c) Before adopting an order under Subsection (a) or (b), the board must:

(1) hold a public hearing at which registered voters of the district are given an opportunity to comment on whether or not they favor the election of trustees in the manner proposed by the board; and

(2) publish notice of the hearing in a newspaper that has general circulation in the district, not later than the seventh day before the date of the hearing.

(d) An order of the board adopted under Subsection (a) or (b) must be entered not later than the 120th day before the date of the first election at which all or some of the trustees are elected from single-member trustee districts authorized by the order.

(e) If at least 15 percent or 15,000 of the registered voters of the school district, whichever is less, sign and present to the board of trustees a petition requesting submission to the voters of the proposition that trustees of the district be elected in a specific manner, which must be generally described on the petition and which must be a manner of election that the board could have ordered on its own motion under Subsection (a) or (b), the board shall order that the appropriate proposition be placed on the ballot at the first regular election of trustees held after the 120th day after the date the petition is submitted to the board. The proposition must specify the number of trustees to be elected from single-member districts. Beginning with the first regular election of trustees held after an election at which a majority of the registered voters voting approve the proposition, trustees of the district shall be elected in the manner prescribed by the approved proposition.

(f) If single-member trustee districts are adopted or approved as provided by this section, the board shall divide the school district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member trustee districts, and shall number each trustee district. The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population. In a district with 150,000 or more students in average daily attendance, the boundary of a trustee district may not cross a county election precinct boundary except at a point at which the boundary of the school district crosses the county election precinct boundary. Trustee districts must be drawn not later than the 90th day before the date of the first election of trustees from those districts.

(g) Residents of each trustee district are entitled to elect one trustee to the board. A trustee elected to represent a trustee district at the first election of trustees must be a resident of the district the trustee represents not later than: (1) the 90th day after the date election returns are canvassed; or (2) the 60th day after the date of a final judgment in an election contest filed concerning that trustee district. After the first election of trustees from single-member trustee districts, a candidate for trustee representing a single-member trustee district must be a resident of the district the candidate seeks to represent. A person appointed to fill a vacancy in a trustee district must be a resident of that trustee district. A trustee vacates the office if the trustee fails to move into the trustee district the trustee represents within the time provided by this subsection or ceases to reside in the district the trustee represents. A candidate for trustee representing the district at large must be a resident of the district.

(h) At the first election at which some or all of the trustees are elected in a manner authorized by this section and after each redistricting, all positions on the board shall be filled. The trustees then elected shall draw lots for staggered terms as provided by Section 11.059.

(i) Not later than the 90th day before the date of the first regular school board election at which trustees may officially recognize and act on the last preceding federal census, the board shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than 10 percent. Redivision of the district shall be in the manner provided for division of the district under Subsection (f).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 982 (H.B. 328), § 1, effective September 1, 2001.)

Sec. 11.053. Option to Continue in Office Following Adoption of Single-Member Plan or Redistricting.

(a) The board of trustees of an independent school district that adopts a redistricting plan under Section 11.052 may provide for the trustees in office when the plan is adopted or the school district is redistricted to serve for the remainder of their terms in accordance with this section.

(b) The trustee district and any at-large positions provided by the district's plan shall be filled as the staggered terms of trustees then in office expire. Not later than the 90th day before the date of the first election from trustee districts and after each redis-

tricting, the board shall determine the order in which the positions will be filled.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 982 (H.B. 328), § 2, effective September 1, 2001.)

Sec. 11.054. Electing Trustees by Cumulative Voting.

(a) The board of trustees of an independent school district that elects its trustees at large or at large by position may order that elections for trustees be held using the cumulative voting procedure described by this section.

(b) At an election at which more than one trustee position is to be filled, all of the positions that are to be filled at the election shall be voted on as one race by all the voters of the school district. Each voter is entitled to cast a number of votes equal to the number of positions to be filled at the election.

(c) A voter may cast one or more of the specified number of votes for any one or more candidates in any combination. Only whole votes may be cast and counted.

(d) If a voter casts more than the number of votes to which the voter is entitled in the election, none of the voter's votes may be counted in that election. If a voter casts fewer votes than entitled, all of the voter's votes are counted in that election.

(e) The candidates who are elected are those, in the number to be elected, receiving the highest numbers of votes.

(f) If the board of trustees adopts an order requiring the use of cumulative voting, only the trustee positions that were scheduled to be elected at the election are filled through the use of cumulative voting.

(g) An independent school district that adopts an order requiring the use of cumulative voting may not elect its members by position as provided by Section 11.058.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.055. Application to Get on Ballot.

(a) Except as provided by Subsection (c), an application of a candidate for a place on the ballot must be filed not later than 5 p.m. of the 71st day before the date of the election. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) In a district in which the positions on the board of trustees are not authorized to be designated by number, an applicant is not required to state which other candidate, if any, the applicant is opposing.

(c) For an election to be held on the date of the general election for state and county officers, the day of the filing deadline is the 78th day before election day.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 925 (S.B. 1215), § 9, effective November 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 30, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 42, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 11.056. Write-In Voting.

(a) In an election for trustees of an independent school district, a write-in vote may not be counted for a person unless that person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers.

(b) A declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election.

(c) With the appropriate modifications and to the extent practicable, Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for trustees of an independent school district.

(d) The secretary of state shall adopt the rules necessary to implement this section.

(e) [Repealed by Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 51(2), effective September 1, 2011.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 74, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 31, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), §§ 43, 51(2), effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 11.057. Determination of Results; Optional Majority Vote Requirement.

(a) Except as provided by Subsection (c), in an independent school district in which the positions of trustees are designated by number as provided by

Section 11.058 or in which the trustees are elected from single-member trustee districts as provided by Section 11.052, the candidate receiving the highest number of votes for each respective position voted on is elected.

(b) In a district in which the positions of trustees are not designated by number or in which the trustees are not elected from single-member trustee districts, the candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring.

(c) The board of trustees of an independent school district in which the positions of trustees are designated by number or in which the trustees are elected from single-member trustee districts as provided by Section 11.052 may provide by resolution, not later than the 180th day before the date of an election, that a candidate must receive a majority of the votes cast for a position or in a trustee district, as applicable, to be elected. A resolution adopted under this subsection is effective until rescinded by a subsequent resolution adopted not later than the 180th day before the date of the first election to which the rescission applies.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 522 (S.B. 111), § 1, effective September 1, 1999.)

Sec. 11.058. Election by Position.

(a) The designation of the positions of trustees by number is or may be required only as specified by this section.

(b) The positions on the board of trustees shall be designated by number in any independent school district in which the procedure of designating and electing the trustees by number has been authorized and instituted whether under general or special law and whether by resolution of the trustees or by operation of law.

(c) The positions on the board of trustees shall be designated by number in any independent school district in which the board of trustees by resolution orders that all candidates for trustee be voted on and elected separately for positions on the board of trustees and that all candidates be designated on the official ballot according to the number of the positions for which they seek election.

(d) The resolution of the board of trustees must be made not later than the 60th day before the date of any trustee election for this section to apply.

(e) The board shall also, not later than the 60th day before the date of the election, number the positions on the board in the order in which the terms of office of the trustees expire.

(f) Once the board of trustees of an independent school district has ordered the election of trustees by numbered positions under this section, neither the board of trustees nor their successors may rescind the action.

(g) Ballots for an election to which this section applies must clearly show the position for which each person is a candidate. The board of trustees shall arrange by lot the names of the candidates for each position.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.0581. Joint Elections Required.

(a) An election for trustees of an independent school district shall be held on the same date as:

(1) the election for the members of the governing body of a municipality located in the school district;

(2) the general election for state and county officers;

(3) the election for the members of the governing body of a hospital district, if the school district:

(A) is wholly or partly located in a county with a population of less than 40,000 that is adjacent to a county with a population of more than three million; and

(B) held its election for trustees jointly with the election for the members of the governing body of the hospital district before May 2007; or

(4) the election for the members of the governing board of a public junior college district in which the school district is wholly or partly located.

(b) Elections held on the same date as provided by Subsection (a) shall be held as a joint election under Chapter 271, Election Code.

(c) The voters of a joint election under this section shall be served by common polling places consistent with Section 271.003(b), Election Code.

(d) The board of trustees of an independent school district changing an election date to comply with this section shall adjust the terms of office of its members to conform to the new election date.

(e) The joint election agreement allocating expenses as provided by Section 271.004, Election Code, must provide that a school district is responsible only for the proportion of election expenses that corresponds to the proportion that the number of registered voters in the school district bears to the total number of registered voters in all political subdivisions participating in the joint election. This subsection applies only to a school district:

(1) that has territory located in at least four counties, each of which has a population of less than 46,100; and

(2) no part of which is located in a municipality.
(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 11.01, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1010 (H.B. 945), § 2, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 40 (S.B. 729), § 1, effective May 10, 2011; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 8, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 326 (H.B. 1871), § 1, effective June 14, 2013.)

Sec. 11.059. Terms.

(a) A trustee of an independent school district serves a term of three or four years.

(b) Elections for trustees with three-year terms shall be held annually. The terms of one-third of the trustees, or as near to one-third as possible, expire each year.

(c) Elections for trustees with four-year terms shall be held biennially. The terms of one-half of the trustees, or as near to one-half as possible, expire every two years.

(d) A board policy must state the schedule on which specific terms expire.

(e) **[Expires January 1, 2017]** Not later than December 31, 2011, the board of trustees may adopt a resolution changing the length of the terms of its trustees. The resolution must provide for staggered terms of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for trustees that occurs after January 1, 2012, and a trustee who serves on that date shall serve the remainder of that term. This subsection expires January 1, 2017.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 17 (S.B. 670), § 1, effective April 25, 2007; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 44, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 11.060. Vacancies.

(a) If a vacancy occurs on the board of trustees of an independent school district, the remaining trustees may fill the vacancy by appointment until the next trustee election.

(b) If the board is appointed by the governing body of a municipality, a trustee appointed by the governing body to fill a vacancy shall serve for the unexpired term.

(c) Instead of filling a vacancy by appointment under Subsection (a) or (b), the board or municipal governing body may order a special election to fill the vacancy. A special election is conducted in the same manner as the district's general election except as provided by the Election Code.

(d) If more than one year remains in the term of the position vacated, the vacancy shall be filled under this section not later than the 180th day after the date the vacancy occurs.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.061. Qualification and Organization of Trustees; Compensation.

(a) The trustees first elected or appointed after the creation or incorporation of an independent school district shall file their official oaths with the county judge of the county in which the district or a major portion of the district is situated. After all subsequent elections, the newly elected trustees shall file their official oaths with the president of the board of trustees.

(b) A person may not be elected trustee of an independent school district unless the person is a qualified voter.

(c) Except as provided by Section 11.062, at the first meeting after each election and qualification of trustees, the members shall organize by selecting:

(1) a president, who must be a member of the board;

(2) a secretary, who may or may not be a member of the board; and

(3) other officers and committees the board considers necessary.

(d) The trustees serve without compensation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.062. Election of Officers in Certain School Districts.

An independent school district in which, before September 1, 1995, part of the trustees were elected from single-member trustee districts and one or more board officers were elected at large shall continue electing trustees and officers in that manner until a different method of selection is adopted by resolution of the board of trustees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.0621. Meetings.

The minutes, certified agenda, or recording, as applicable, of a regular or special meeting of the board of trustees must reflect each member's attendance at or absence from the meeting. The minutes or tape recording of an open meeting must be acces-

sible to the public in accordance with Section 551.022, Government Code.
(Enacted by Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 2, effective September 1, 2007.)

Sec. 11.063. Eligibility for Employment.

A trustee of an independent school district may not accept employment with that school district until the first anniversary of the date the trustee's membership on the board ends.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.064. Filing of Financial Statement by Trustee.

(a) The board of trustees of an independent school district by resolution adopted by majority vote may require each member of the board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

(1) the board of trustees; and

(2) the Texas Ethics Commission.

(a-1) Not later than the 15th day after the date a board of trustees adopts a resolution under Subsection (a), the board shall deliver a certified copy of the resolution to the Texas Ethics Commission.

(a-2) A resolution adopted under Subsection (a) applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board of trustees that has adopted a resolution under Subsection (a) is not required to include, in a financial disclosure statement under this section, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

(a-3) The commissioner by order shall require the members of the board of trustees of an independent school district to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, in the same manner as the members of a board of trustees that have adopted a resolution under Subsection (a) if the commissioner determines that:

(1) a board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;

(2) the district financial accounting practices are not adequate to safeguard state and district funds; or

(3) the district has not met a standard set by the commissioner in the financial accountability rating system.

(a-4) The commissioner may require filing financial statements under Subsection (a-3) covering not more than three fiscal years and beginning on January 1 of the second year following the date of the commissioner's order. A member of a board of trustees subject to an order issued under Subsection (a-3) is not required to include, in a financial disclosure statement subject to this section, financial activity occurring before January 1 of the year following the year in which the order is issued. The commissioner may renew the requirement if the commissioner determines that a condition described by Subsection (c) continues to exist.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a trustee subject to this section as if the trustee were a state officer; and

(2) governs the contents, timeliness of filing, and public inspection of a statement filed under this section.

(c) A trustee serving in a school district that has adopted a resolution under Subsection (a) or that is subject to an order issued under Subsection (a-3) commits an offense if the trustee fails to file the statement required by the resolution or order. An offense under this section is a Class B misdemeanor.

(d) **[Effective January 1, 2014, expires January 1, 2019]** This section does not apply to the board of trustees of an independent school district to which Section 11.0641 applies. This subsection expires January 1, 2019.
(Enacted by Acts 2003, 78th Leg., ch. 249 (H.B. 1606), art. 6, § 6.04, effective September 1, 2003; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), art. 30, § 30.01, effective January 11, 2004; am. Acts 2013, 83rd Leg., ch. 853 (H.B. 343), § 1, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 853 (H.B. 343), § 3(b) and (c) provides:

"(b) The change in law made by this Act applies only to an offense committed on or after January 1, 2014. For purposes of this section, an offense is committed before January 1, 2014, if any element of the offense occurs before that date.

(c) An offense committed before January 1, 2014, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose."

Sec. 11.0641. [Effective January 1, 2014, expires January 1, 2019] Filing of Financial Statement by Trustee Required for Certain School Districts.

(a) This section applies only to the board of trustees of an independent school district that is located in a county that is located on the international border and in which a municipality with a population of 600,000 or more is located.

(b) Each member of the board of trustees of an independent school district shall file a financial statement with:

(1) the board of trustees; and

(2) the commissioners court of the county in which the school district's central administrative office is located.

(c) The provisions of Subchapter B, Chapter 572, Government Code, governing the contents, timeliness of filing, and public inspection of a statement apply to a statement filed under this section as if the trustee were a state officer and the commissioners court of the county were the Texas Ethics Commission.

(d) A trustee commits an offense if the trustee fails to file the statement required by this section. An offense under this section is a Class B misdemeanor.

(e) The commissioners court of the county shall determine from any available evidence whether a statement required to be filed under this section is late. On making a determination that the statement is late, the commissioners court shall immediately mail a notice of the determination to the individual responsible for filing the statement. If a statement is determined to be late, the individual responsible for filing the statement is liable to the county for a civil penalty of $500. If a statement is more than 30 days late, the commissioners court shall issue a warning of liability by registered mail to the individual responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the individual is liable for a civil penalty in an amount determined by the commissioners court, but not to exceed $10,000.

(f) A trustee is not required to file a statement under this section for financial activity occurring on or after January 1, 2018. This section expires January 1, 2019.

(Enacted by Acts 2013, 83rd Leg., ch. 853 (H.B. 343), § 2, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 853 (H.B. 343), § 3(a), (b) and (d) provides:

"(a) Section 11.0641, Education Code, as added by this Act, applies beginning January 1, 2015. A trustee is not required to include financial activity occurring before January 1, 2014, in a statement filed under that section.

(b) The change in law made by this Act applies only to an offense committed on or after January 1, 2014. For purposes of this section, an offense is committed before January 1, 2014, if any element of the offense occurs before that date.

(d) The expiration of Section 11.0641, Education Code, as added by this Act, does not affect the prosecution of an offense under or the collection of a civil penalty for the violation of that section as it existed before it expired, and the former law is continued in effect for that purpose."

Sec. 11.065. Applicability to Certain Districts.

(a) Sections 11.052(g) and (h) and Sections 11.059(a) and (b) do not apply to the board of trustees of a school district if:

(1) the district's central administrative office is located in a county with a population of more than two million; and

(2) the district's student enrollment is more than 125,000 and less than 200,000.

(b) Section 11.053 of this code and Section 141.001, Election Code, apply to the board of trustees of a school district described by Subsection (a).

(c) A trustee of a school district described by Subsection (a) may not serve a term that exceeds four years.

(d) Notwithstanding Chapter 171, Acts of the 50th Legislature, Regular Session, 1947 (Article 2783d, Vernon's Texas Civil Statutes), to the extent consistent with this section, the board of trustees of a school district described by Subsection (a) may adopt rules necessary to govern the term, election, and residency requirements of members of the board that may be adopted under general law by any other school district.

(Enacted by Acts 2003, 78th Leg., ch. 344 (S.B. 688), § 1, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(10), effective September 1, 2005 (renumbered from Sec. 11.064).)

SUBCHAPTER D
POWERS AND DUTIES OF BOARD OF TRUSTEES OF INDEPENDENT SCHOOL DISTRICT

Sec. 11.151. In General.

(a) The trustees of an independent school district constitute a body corporate and in the name of the district may acquire and hold real and personal property, sue and be sued, and receive bequests and donations or other moneys or funds coming legally into their hands.

(b) The trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. All powers and duties not specifically delegated by statute to the agency or to the State Board of Education are reserved for the trustees, and the agency may not substitute its judgment for the lawful exercise of those powers and duties by the trustees.

(c) All rights and titles to the school property of the district, whether real or personal, shall be vested in the trustees and their successors in office. The trustees may, in any appropriate manner, dispose of property that is no longer necessary for the operation of the school district.

(d) The trustees may adopt rules and bylaws necessary to carry out the powers and duties provided by Subsection (b).

(e) A school district may request the assistance of the attorney general on any legal matter. The district must pay any costs associated with the assistance.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 5, effective September 1, 2003.)

Sec. 11.1511. Specific Powers and Duties of Board.

(a) In addition to powers and duties under Section 11.151 or other law, the board of trustees of an independent school district has the powers and duties provided by Subsection (b).

(b) The board shall:

(1) seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community;

(2) adopt a vision statement and comprehensive goals for the district and the superintendent and monitor progress toward those goals;

(3) establish performance goals for the district concerning:

(A) the academic and fiscal performance indicators under Subchapters C, D, and J, Chapter 39; and

(B) any performance indicators adopted by the district;

(4) ensure that the superintendent:

(A) is accountable for achieving performance results;

(B) recognizes performance accomplishments; and

(C) takes action as necessary to meet performance goals;

(5) adopt a policy to establish a district- and campus-level planning and decision-making process as required under Section 11.251;

(6) publish an annual educational performance report as required under Section 39.306;

(7) adopt an annual budget for the district as required under Section 44.004;

(8) adopt a tax rate each fiscal year as required under Section 26.05, Tax Code;

(9) monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records;

(10) ensure that district fiscal accounts are audited annually as required under Section 44.008;

(11) publish an end-of-year financial report for distribution to the community;

(12) conduct elections as required by law;

(13) by rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint;

(14) make decisions relating to terminating the employment of district employees employed under a contract to which Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies; and

(15) carry out other powers and duties as provided by this code or other law.

(c) The board may:

(1) issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Sections 45.001 and 45.003;

(2) levy, assess, and collect an annual ad valorem tax for maintenance and operation of the district as authorized under Sections 45.002 and 45.003;

(3) employ a person to assess or collect the district's taxes as authorized under Section 45.231; and

(4) enter into contracts as authorized under this code or other law and delegate contractual authority to the superintendent as appropriate.

(Enacted by Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 3, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 7, effective June 19, 2009.)

Sec. 11.1512. Collaboration Between Board and Superintendent.

(a) In relation to the superintendent of the school district, the board of trustees of the district has the powers and duties specified by Sections 11.1511(b) and (c). The superintendent shall, on a day-to-day basis, ensure the implementation of the policies created by the board.

(b) The board of trustees and the superintendent shall work together to:

(1) advocate for the high achievement of all district students;

(2) create and support connections with community organizations to provide community-wide support for the high achievement of all district students;

(3) provide educational leadership for the district, including leadership in developing the district vision statement and long-range educational plan;

(4) establish district-wide policies and annual goals that are tied directly to the district's vision statement and long-range educational plan;

(5) support the professional development of principals, teachers, and other staff; and

(6) periodically evaluate board and superintendent leadership, governance, and teamwork.

(c) A member of the board of trustees of the district, when acting in the member's official capacity, has an inherent right of access to information, documents, and records maintained by the district, and the district shall provide the information, documents, and records to the member without requiring the member to submit a public information request under Chapter 552, Government Code. The district shall provide the information, documents, and records to the member without regard to whether the requested items are the subject of or relate to an item listed on an agenda for an upcoming meeting. The district may withhold or redact information, a document, or a record requested by a member of the board to the extent that the item is excepted from disclosure or is confidential under Chapter 552, Government Code, or other law. This subsection does not require the district to provide information, documents, and records that are not subject to disclosure under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(d) A school district shall post, in a place convenient to the public, the cost of responding to one or more requests submitted by a member of the board of trustees of the district under Subsection (c) if the requests are for 200 or more pages of material in a 90-day period.

(e) The district shall report annually to the Texas Education Agency not later than September 1 of each year:

(1) the number of requests submitted by a member of the board of trustees of the district under Subsection (c) during the preceding school year; and

(2) the total cost to the district for that school year of responding to requests under Subsection (c).

(f) In this section, "official capacity" means all duties of office and includes administrative decisions or actions.

(Enacted by Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 3, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1130 (H.B. 628), § 1, effective September 1, 2013.)

Sec. 11.1513. Employment Policy.

(a) The board of trustees of each independent school district shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that:

(1) the board employs and evaluates the superintendent;

(2) the superintendent has sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent; and

(3) each principal must approve each teacher or staff appointment to the principal's campus as provided by Section 11.202.

(b) The board of trustees may accept or reject the superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's meeting, as required under Section 551.021, Government Code, in the certified agenda or tape recording required under Section 551.103, Government Code, or in the recording required under Section 551.125 or 551.127, Government Code, as applicable. If the board rejects the superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation.

(c) The employment policy may:

(1) specify the terms of employment with the district;

(2) delegate to the superintendent the authority to determine the terms of employment with the district; or

(3) include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district.

(d) The employment policy must provide that not later than the 10th school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Section 21.003, other than a position that affects the safety and security of students as determined by the board of trustees, the district must provide to each current district employee:

(1) notice of the position by posting the position on:

(A) a bulletin board at:

(i) a place convenient to the public in the district's central administrative office; and

(ii) the central administrative office of each campus in the district during any time the office is open; or

(B) the district's Internet website, if the district has a website; and

(2) a reasonable opportunity to apply for the position.

(e) If, during the school year, the district must fill a vacant position held by a teacher, as defined by Section 21.201, in less than 10 school days, the district:

(1) must provide notice of the position in the manner described by Subsection (d)(1) as soon as possible after the vacancy occurs;

(2) is not required to provide the notice for 10 school days before filling the position; and

(3) is not required to comply with Subsection (d)(2).

(f) If, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel:

(1) the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made under that delegation of authority; and

(2) each member of the board of trustees remains subject to Chapter 573, Government Code, with respect to all district employees.

(g) Subsection (f) does not apply to a school district that is located:

(1) wholly in a county with a population of less than 35,000; or

(2) in more than one county, if the county in which the largest portion of the district territory is located has a population of less than 35,000.

(h) For purposes of Subsection (f), a person hired by a school district before September 1, 2007, is considered to have been in continuous employment as provided by Section 573.062(a), Government Code, and is not prohibited from continuing employment with the district subject to the restrictions of Section 573.062(b), Government Code.

(i) The employment policy must provide each school district employee with the right to present grievances to the district board of trustees.

(j) The employment policy may not restrict the ability of a school district employee to communicate directly with a member of the board of trustees regarding a matter relating to the operation of the district, except that the policy may prohibit ex parte communication relating to:

(1) a hearing under Subchapter E or F, Chapter 21; and

(2) another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by a school district board of trustees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 705 (S.B. 387), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 10 (S.B. 135), § 1, effective April 23, 2007; am. Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 4, effective September 1, 2007 (renumbered from Sec. 11.163); am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(4), effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 1, effective June 19, 2009.)

Sec. 11.1514. Social Security Numbers.

The board of trustees of an independent school district shall adopt a policy prohibiting the use of the social security number of an employee of the district as an employee identifier other than for tax purposes.

(Enacted by Acts 2013, 83rd Leg., ch. 183 (H.B. 2961), § 3, effective September 1, 2013.)

Sec. 11.152. Taxes; Bonds.

The trustees of an independent school district may levy and collect taxes and issue bonds in compliance with Chapter 45. If a specific rate of tax is not adopted at an election authorizing a tax, the trustees shall determine the rate of tax to be levied within the limit voted and specified by law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.153. Sale of Minerals.

(a) Minerals in land belonging to an independent school district may be sold to any person under this section.

(b) The sale must be authorized by a resolution adopted by majority vote of the board of trustees of the school district.

(c) After adoption of a resolution under Subsection (b), the president of the board of trustees may execute an oil or gas lease or sell, exchange, and convey the minerals. The mineral deed or lease must recite the approval of the resolution of the board authorizing the sale.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.154. Sale of Property Other Than Minerals.

(a) The board of trustees of an independent school district may, by resolution, authorize the sale of any property, other than minerals, held in trust for public school purposes.

(b) The president of the board of trustees shall execute a deed to the purchaser of the property reciting the resolution of the board of trustees authorizing the sale.

(c) A school district may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.1541. Donation of Surplus Property.

(a) The board of trustees of an independent school district may, by resolution, authorize the donation of

real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization if:

(1) before adopting the resolution, the board holds a public hearing concerning the donation and, in addition to any other notice required, gives notice of the hearing by publishing the subject matter, location, date, and time of the hearing in a newspaper having general circulation in the territory of the district;

(2) the board determines that:

(A) the improvements have historical significance;

(B) the transfer will further the preservation of the improvements; and

(C) at the time of the transfer, the district does not need the real property or improvements for educational purposes; and

(3) the entity to whom the transfer is made has shown, to the satisfaction of the board, that the entity intends to continue to use the real property and improvements for public purposes.

(b) The president of the board of trustees shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization. The deed must:

(1) recite the resolution of the board authorizing the donation; and

(2) provide that ownership of the real property and improvements revert to the district if the municipality, county, state agency, or nonprofit organization:

(A) discontinues use of the real property and improvements for public purposes; or

(B) executes a document that purports to convey the property.

(c) In this section, "nonprofit organization" means an organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(Enacted by Acts 2001, 77th Leg., ch. 161 (S.B. 116), § 1, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1189 (S.B. 805), § 1, effective September 1, 2003.)

Sec. 11.1542. Open-Enrollment Charter School Offer for District Facility.

(a) The board of trustees of an independent school district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale or lease or to any other specific entity.

(b) This section does not require the board of trustees of a school district to accept an offer made by an open-enrollment charter school.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 1, effective September 1, 2013.)

Sec. 11.1543. Charter School Payment for Facilities Use or for Services.

(a) An independent school district may not require a campus or campus program that has been granted a charter under Subchapter C, Chapter 12, and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.

(b) An independent school district may not require a campus or campus program described by Subsection (a) or an open-enrollment charter school to pay for any service provided by the district under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the amount of the actual costs to the district of providing the service.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 1, effective September 1, 2013.)

Sec. 11.155. Eminent Domain.

(a) An independent school district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district.

(b) In a condemnation by a school district, the trial and all other proceedings, including the assessing of damages, shall be in compliance with the statutes that apply to condemnation by a railroad.

(c) When final judgment is issued in a condemnation, the plaintiff shall be awarded the fee simple title to the property condemned.

(d) If the school district desires to take possession of the property to be condemned pending suit, it may do so at any time after the award of the commissioners and on the conditions in Subdivisions (1)—(4).

(1) The district is not required to give any bond, but it must pay to the defendant the amount of damages awarded or adjudged against it by the commissioners or deposit that amount in court subject to the order of the defendant, and the district shall pay the costs awarded against it.

(2) If on an appeal from the award of the commissioners the judgment exceeds the amount of the award, the district, if it has previously

taken possession of the property, shall pay the judgment and costs awarded against it, not later than the 60th day after the date of the final judgment in the case. If the school district fails to pay the judgment and costs, the court shall on application of the defendant determine the damages, if any, the defendant has suffered by reason of the temporary possession by the plaintiff, order those damages paid out of the award deposited in court, and order a writ of possession for the property in favor of the defendant.

(3) If the final judgment on an appeal is less than the amount of the award of the commissioners, the court shall order the excess to be returned to the district.

(4) If the cause is appealed from the decision of the county court, the appeal is governed by the law governing appeals in other cases, except that the judgment of the county court is not suspended by the appeal.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 81 (S.B. 18), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 81 (S.B. 18), § 24 provides: "Section 11.155, Education Code, Chapter 2206, Government Code, Sections 251.001, 261.001, 263.201, and 273.002, Local Government Code, Chapter 21, Property Code, and Section 1, Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), as amended by this Act, apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act [September 1, 2011] and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding are governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 11.156. Donations to the Public Schools.

(a) A conveyance, devise, or bequest of property for the benefit of the public schools made by anyone for any county, municipality, or district, if not otherwise directed by the donor, vests the property in the county school trustees, the board of trustees of the municipality or district, or their successors in office as trustees for those to be benefited by the donation.

(b) The funds or other property donated or the income from the property may be spent by the trustees:

(1) for any purpose designated by the donor that is in keeping with the lawful purposes of the schools for the benefit of which the donation was made; or

(2) for any legal purpose if a specific purpose is not designated by the donor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.157. Contracts for Educational Services.

The board of trustees of an independent school district may contract with a public or private entity for that entity to provide educational services for the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.158. Authority to Charge Fees.

(a) The board of trustees of an independent school district may require payment of:

(1) a fee for materials used in any program in which the resultant product in excess of minimum requirements becomes, at the student's option, the personal property of the student, if the fee does not exceed the cost of materials;

(2) membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities, if membership or attendance is voluntary;

(3) a security deposit for the return of materials, supplies, or equipment;

(4) a fee for personal physical education and athletic equipment and apparel, although any student may provide the student's own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the board;

(5) a fee for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements;

(6) a fee specifically permitted by any other statute;

(7) a fee for an authorized voluntary student health and accident benefit plan;

(8) a reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by the district;

(9) a fee for items of personal apparel that become the property of the student and that are used in extracurricular activities;

(10) a parking fee or a fee for an identification card;

(11) a fee for a driver training course, not to exceed the actual district 0 cost per student in the program for the current school year;

(12) a fee for a course offered for credit that requires the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option;

(13) a fee for a course offered during summer school, except that the board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school year;

(14) a reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the board may not charge a fee for transportation for which the school district receives funds under Section 42.155(d);

(15) a reasonable fee, not to exceed $50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Section 25.092; or

(16) if the district does not receive any funds under Section 42.155 and does not participate in a county transportation system for which an allotment is provided under Section 42.155(i), a reasonable fee for the transportation of a student to and from the school the student attends.

(b) The board may not charge fees for:

(1) instructional materials, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under this code;

(2) field trips required as a part of a basic education program or course;

(3) any specific form of dress necessary for any required educational program or diplomas;

(4) the payment of instructional costs for necessary school personnel employed in any course or educational program required for graduation;

(5) library materials required to be used for any educational course or program, other than fines for lost, damaged, or overdue materials;

(6) admission to any activity the student is required to attend as a prerequisite to graduation;

(7) admission to or examination in any required educational course or program; or

(8) lockers.

(c) Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, notebooks, and school uniforms, except that students who are educationally disadvantaged may be required to furnish school uniforms only as provided by Section 11.162.

(d) The board may not charge a fee under Subsection (a)(12) for a course to which Section 28.003 applies.

(e) This section does not prohibit the operation of a school store in which students may purchase school supplies and materials.

(f) A school district shall adopt reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook.

(g) This section does not prohibit a board of trustees from charging reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans', or continuing education, community service, evening school, and high school equivalency programs.

(h) For a fee charged under Subsection (a)(15), the school district must provide a written form to be signed by the student's legal guardian stating that this fee would not create a financial hardship or discourage the student from attending the program. The school district may only assess the fee if the student returns the signed form.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1029 (S.B. 517), § 3, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 698 (H.B. 772), § 1, effective June 18, 1999; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.01, effective September 28, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 9, effective July 19, 2011.)

Sec. 11.159. Member Training and Orientation.

(a) The State Board of Education shall provide a training course for independent school district trustees to be offered by the regional education service centers. Registration for a course must be open to any interested person, including current and prospective board members, and the state board may prescribe a registration fee designed to offset the costs of providing that course.

(b) A trustee must complete any training required by the State Board of Education. The minutes of the last regular meeting of the board of trustees held during a calendar year must reflect whether each trustee has met or is delinquent in meeting the training required to be completed as of the date of the meeting.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 5, effective September 1, 2007.)

Sec. 11.160. Change of School District Name.

(a) The board of trustees of an independent school district by resolution may change the name of the school district.

(b) The board shall give notice of the change in name of the district by sending to the commissioner a copy of the resolution, attested by the president and secretary of the board. The district, under its changed name, is considered a continuation of the district, as formerly named, for all purposes.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.161. Frivolous Suit.

In a civil suit brought under state law, against an independent school district or an officer of an independent school district acting under color of office, the court may award costs and reasonable attorney's fees if:

(1) the court finds that the suit is frivolous, unreasonable, and without foundation; and

(2) the suit is dismissed or judgment is for the defendant.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.162. School Uniforms.

(a) The board of trustees of an independent school district may adopt rules that require students at a school in the district to wear school uniforms if the board determines that the requirement would improve the learning environment at the school.

(b) The rules the board of trustees adopts must designate a source of funding that shall be used in providing uniforms for students at the school who are educationally disadvantaged.

(c) A parent or guardian of a student assigned to attend a school at which students are required to wear school uniforms may choose for the student to be exempted from the requirement or to transfer to a school at which students are not required to wear uniforms and at which space is available if the parent or guardian provides a written statement that, as determined by the board of trustees, states a bona fide religious or philosophical objection to the requirement.

(d) Students at a school at which uniforms are required shall wear the uniforms beginning on the 90th day after the date on which the board of trustees adopts the rules that require the uniforms.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.163. Employment Policy [Renumbered].

Renumbered to Tex. Educ. Code § 11.1513 by Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 4, effective September 1, 2007, Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(4), effective September 1, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 705 (S.B. 387), § 1, effective June 17, 2005.)

Sec. 11.164. Restricting Written Information.

(a) The board of trustees of each school district shall limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. A classroom teacher may not be required to prepare any written information other than:

(1) any report concerning the health, safety, or welfare of a student;

(2) a report of a student's grade on an assignment or examination;

(3) a report of a student's academic progress in a class or course;

(4) a report of a student's grades at the end of each grade reporting period;

(5) a report on instructional materials;

(6) a unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;

(7) an attendance report;

(8) any report required for accreditation review;

(9) any information required by a school district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or

(10) any information specifically required by law, rule, or regulation.

(b) The board of trustees shall review paperwork requirements imposed on classroom teachers and shall transfer to existing noninstructional staff a reporting task that can reasonably be accomplished by that staff.

(c) This section does not preclude a school district from collecting essential information, in addition to information specified under Subsection (a), from a classroom teacher on agreement between the classroom teacher and the district.
(Enacted by Acts 1997, 75th Leg., ch. 1320 (S.B. 1221), § 1; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 6, effective September 1, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 10, effective July 19, 2011.)

Sec. 11.165. Access to School Campuses.

The board of trustees of an independent school district may adopt rules to keep school campuses, including school libraries, open for recreational ac-

tivities, latchkey programs, and tutoring after school hours.
(Enacted by Acts 1999, 76th Leg., ch. 1170 (S.B. 104), § 1, effective June 18, 1999.)

Sec. 11.166. Operation on Campus of Institution of Higher Education.

(a) The board of trustees of a school district may operate a school or program or hold a class on the campus of an institution of higher education in this state if the board obtains written consent from the president or other chief executive officer of the institution.

(b) The president or other chief executive officer of an institution of higher education may provide written consent to a board of trustees of a school district under Subsection (a) regardless of whether the institution is located within the boundaries of the district.
(Enacted by Acts 2001, 77th Leg., ch. 734 (S.B. 826), § 1, effective June 13, 2001.)

Sec. 11.167. Operation Outside District Boundaries.

The board of trustees of a school district may operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district.
(Enacted by Acts 2001, 77th Leg., ch. 734 (S.B. 826), § 1, effective June 13, 2001.)

Sec. 11.168. Use of District Resources Prohibited for Certain Purposes; Exception.

(a) Except as provided by Subsection (b) or Section 45.109(a-1) or (a-2), the board of trustees of a school district may not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

(b) This section does not prohibit the board of trustees of a school district from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district. Benefits to real property owned or leased by the district include the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the district.
(Enacted by Acts 2005, 79th Leg., ch. 979 (H.B. 1826), § 1, effective June 18, 2005; enacted by Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 32, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.01, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 11.169. Electioneering Prohibited.

Notwithstanding any other law, the board of trustees of an independent school district may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party.
(Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 32, effective September 1, 2005; Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(11), effective September 1, 2007 (renumbered from Sec. 11.168).)

Sec. 11.170. Internal Auditor.

If a school district employs an internal auditor:

(1) the board of trustees shall select the internal auditor; and

(2) the internal auditor shall report directly to the board.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.04, effective May 31, 2006.)

Sec. 11.171. School District Grievance Policy.

(a) A school district grievance policy must permit a school district employee to report a grievance against a supervisor that alleges the supervisor's violation of the law in the workplace or the supervisor's unlawful harassment of the employee to a supervisor other than the supervisor against whom the employee intends to report the grievance.

(b) A school district grievance policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of this subsection may not result in a delay of any timeline provided by the grievance policy and does not require the district to provide equipment for the employee to make the recording.

(c) A school district grievance policy must permit an attorney or other person representing a district employee concerning a grievance reported under Subsection (a) to represent the employee through a telephone conference call, provided that the district has the equipment necessary for that type of call, at any formal grievance proceeding, hearing, or conference at which the district employee is entitled to representation according to the school district grievance policy.

(Enacted by Acts 2007, 80th Leg., ch. 176 (H.B. 1622), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 191 (H.B. 2512), § 1, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1297 (H.B. 2607), § 1, effective June 14, 2013.)

Sec. 11.178. Prohibition Against Use of School District Resources for Hotel.

(a) In this section, "hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a motel.

(b) The board of trustees of an independent school district may not impose taxes, issue bonds, use or authorize the use of school district employees, use or authorize the use of school district property, money, or other resources, or acquire property for the design, construction, renovation, or operation of a hotel.

(c) The board of trustees of an independent school district may not enter into a lease, contract, or other agreement that:

(1) obligates the board to engage in an activity prohibited by Subsection (b); or

(2) obligates the use of district employees or resources in a manner prohibited by Subsection (b).

(Enacted by Acts 2011, 82nd Leg., ch. 623 (S.B. 764), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 623 (S.B. 764), § 2 provides: "Subsection (c), Section 11.178, Education Code, as added by this Act, applies only to an agreement concerning the use of school district resources for a hotel that is entered into on or after the effective date of this Act [June 17, 2011]. An agreement concerning the use of school district resources for a hotel that is entered into before the effective date of this Act is governed by the law in effect on the date the agreement was entered into, and that law is continued in effect for that purpose."

SUBCHAPTER E
SUPERINTENDENTS AND PRINCIPALS

Sec. 11.201. Superintendents.

(a) The superintendent is the educational leader and the chief executive officer of the school district.

(b) The board of trustees of an independent school district may employ by contract a superintendent for a term not to exceed five years.

(c) For purposes of this subsection, "severance payment" means any amount paid by the board of trustees of an independent school district to or in behalf of a superintendent on early termination of the superintendent's contract that exceeds the amount earned by the superintendent under the contract as of the date of termination, including any amount that exceeds the amount of earned standard salary and benefits that is paid as a condition of early termination of the contract. The board of trustees that makes a severance payment to a superintendent shall report the terms of the severance payment to the commissioner. The commissioner shall reduce the district's Foundation School Program funds by any amount that the amount of the severance payment to the superintendent exceeds an amount equal to one year's salary and benefits under the superintendent's terminated contract. The commissioner may adopt rules as necessary to administer this subsection.

(d) The duties of the superintendent include:

(1) assuming administrative responsibility and leadership for the planning, organization, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;

(2) except as provided by Section 11.202, assuming administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district other than the superintendent;

(3) overseeing compliance with the standards for school facilities established by the commissioner under Section 46.008;

(4) initiating the termination or suspension of an employee or the nonrenewal of an employee's term contract;

(5) managing the day-to-day operations of the district as its administrative manager, including implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of district operations;

(6) preparing and submitting to the board of trustees a proposed budget as provided by Section 44.002 and rules adopted under that section, and administering the budget;

(7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;

(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

(9) providing leadership for the attainment and, if necessary, improvement of student performance in the district based on the indicators adopted under Sections 39.053 and 39.301 and other indicators adopted by the commissioner or the district's board of trustees;

(10) organizing the district's central administration;

(11) consulting with the district-level committee as required under Section 11.252(f);

(12) ensuring:

(A) adoption of a student code of conduct as required under Section 37.001 and enforcement of that code of conduct; and

(B) adoption and enforcement of other student disciplinary rules and procedures as necessary;

(13) submitting reports as required by state or federal law, rule, or regulation;

(14) providing joint leadership with the board of trustees to ensure that the responsibilities of the board and superintendent team are carried out; and

(15) performing any other duties assigned by action of the board of trustees.

(e) The superintendent of a school district may not receive any financial benefit for personal services performed by the superintendent for any business entity that conducts or solicits business with the district. Any financial benefit received by the superintendent for performing personal services for any other entity, including a school district, open-enrollment charter school, regional education service center, or public or private institution of higher education, must be approved by the board of trustees on a case-by-case basis in an open meeting. For purposes of this subsection, the receipt of reimbursement for a reasonable expense is not considered a financial benefit.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 955 (S.B. 1446), § 1, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 90 (H.B. 189), § 1, effective May 15, 2007; am. Acts 2007, 80th Leg., ch. 1244 (H.B. 2563), § 6, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 8, effective June 19, 2009.)

Sec. 11.202. Principals.

(a) The principal of a school is the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role.

(b) Each principal shall:

(1) except as provided by Subsection (d), approve all teacher and staff appointments for that principal's campus from a pool of applicants selected by the district or of applicants who meet the hiring requirements established by the district, based on criteria developed by the principal after informal consultation with the faculty;

(2) set specific education objectives for the principal's campus, through the planning process under Section 11.253;

(3) develop budgets for the principal's campus;

(4) assume the administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus;

(5) assign, evaluate, and promote personnel assigned to the campus;

(6) recommend to the superintendent the termination or suspension of an employee assigned to the campus or the nonrenewal of the term contract of an employee assigned to the campus; and

(7) perform other duties assigned by the superintendent pursuant to the policy of the board of trustees.

(c) The board of trustees of a school district shall adopt a policy for the selection of a campus principal that includes qualifications required for that position.

(d) The superintendent or the person designated by the superintendent has final placement authority for a teacher transferred because of enrollment shifts or program changes in the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.203. School Leadership Pilot Program for Principals [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 9; Acts 2009, 81st Leg., ch. 1037 (H.B. 4435), § 1, effective September 1, 2010.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.01, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 9, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1037 (H.B. 4435), § 1, effective June 19, 2009.)

SUBCHAPTER F
DISTRICT-LEVEL AND SITE-BASED DECISION-MAKING

Sec. 11.251. Planning and Decision-Making Process.

(a) The board of trustees of each independent school district shall ensure that a district improve-

ment plan and improvement plans for each campus are developed, reviewed, and revised annually for the purpose of improving the performance of all students. The board shall annually approve district and campus performance objectives and shall ensure that the district and campus plans:

(1) are mutually supportive to accomplish the identified objectives; and

(2) at a minimum, support the state goals and objectives under Chapter 4.

(b) The board shall adopt a policy to establish a district- and campus-level planning and decision-making process that will involve the professional staff of the district, parents, and community members in establishing and reviewing the district's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. The board shall establish a procedure under which meetings are held regularly by district- and campus-level planning and decision-making committees that include representative professional staff, including, if practicable, at least one representative with the primary responsibility for educating students with disabilities, parents of students enrolled in the district, business representatives, and community members. The committees shall include a business representative without regard to whether the representative resides in the district or whether the business the person represents is located in the district. The board, or the board's designee, shall periodically meet with the district-level committee to review the district-level committee's deliberations.

(c) For purposes of establishing the composition of committees under this section:

(1) a person who stands in parental relation to a student is considered a parent;

(2) a parent who is an employee of the school district is not considered a parent representative on the committee;

(3) a parent is not considered a representative of community members on the committee; and

(4) community members must reside in the district and must be at least 18 years of age.

(d) The board shall also ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the superintendent, central office staff, principals, teachers, district-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. The board shall ensure that the district-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision-making at the district and campus levels.

(e) The board shall adopt a procedure, consistent with Section 21.407(a), for the professional staff in the district to nominate and elect the professional staff representatives who shall meet with the board or the board designee as required under this section. At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and district-level professional staff members. If practicable, the committee membership shall include at least one professional staff representative with the primary responsibility for educating students with disabilities. Board policy must provide procedures for:

(1) the selection of parents to the district-level and campus-level committees; and

(2) the selection of community members and business representatives to serve on the district-level committee in a manner that provides for appropriate representation of the community's diversity.

(f) The district policy must provide that all pertinent federal planning requirements are addressed through the district- and campus-level planning process.

(g) This section does not:

(1) prohibit the board from conducting meetings with teachers or groups of teachers other than the meetings described by this section;

(2) prohibit the board from establishing policies providing avenues for input from others, including students or paraprofessional staff, in district- or campus-level planning and decision-making;

(3) limit or affect the power of the board to govern the public schools; or

(4) create a new cause of action or require collective bargaining.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 1, effective May 16, 2003; am. Acts 2011, 82nd Leg., ch. 626 (S.B. 778), § 1, effective September 1, 2011.)

Sec. 11.252. District-Level Planning and Decision-Making.

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect

to the student achievement indicators adopted under Section 39.053. The district improvement plan must include provisions for:

(1) a comprehensive needs assessment addressing district student performance on the student achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29;

(2) measurable district performance objectives for all appropriate student achievement indicators for all student populations, including students in special education programs under Subchapter A, Chapter 29, and other measures of student performance that may be identified through the comprehensive needs assessment;

(3) strategies for improvement of student performance that include:

(A) instructional methods for addressing the needs of student groups not achieving their full potential;

(B) methods for addressing the needs of students for special programs, including:

(i) suicide prevention programs, in accordance with Subchapter O-1, Chapter 161, Health and Safety Code, which includes a parental or guardian notification procedure;

(ii) conflict resolution programs;

(iii) violence prevention programs; and

(iv) dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) discipline management;

(F) staff development for professional staff of the district;

(G) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and

(H) accelerated education;

(4) strategies for providing to middle school, junior high school, and high school students, those students' teachers and school counselors, and those students' parents information about:

(A) higher education admissions and financial aid opportunities;

(B) the TEXAS grant program and the Teach for Texas grant program established under Chapter 56;

(C) the need for students to make informed curriculum choices to be prepared for success beyond high school; and

(D) sources of information on higher education admissions and financial aid;

(5) resources needed to implement identified strategies;

(6) staff responsible for ensuring the accomplishment of each strategy;

(7) timelines for ongoing monitoring of the implementation of each improvement strategy;

(8) formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance; and

(9) the policy under Section 38.0041 addressing sexual abuse and other maltreatment of children.

(b) A district's plan for the improvement of student performance is not filed with the agency, but the district must make the plan available to the agency on request.

(c) In a district that has only one campus, the district- and campus-level committees may be one committee and the district and campus plans may be one plan.

(d) At least every two years, each district shall evaluate the effectiveness of the district's decision-making and planning policies, procedures, and staff development activities related to district- and campus-level decision-making and planning to ensure that they are effectively structured to positively impact student performance.

(d-1) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective January 1, 1996.]

(e) The district-level committee established under Section 11.251 shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from the agency for the purpose of discussing the performance of the district and the district performance objectives. District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. This section does not create a new cause of action or require collective bargaining.

(f) A superintendent shall regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the district educational program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1202 (S.B. 476), § 2, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 6, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 7, effective June 15, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3),

§ 10, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1134 (H.B. 1386), § 4, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1323 (S.B. 471), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1134 (H.B. 1386), § 8 provides: "This Act applies beginning with the 2012-2013 school year."

Acts 2011, 82nd Leg., ch. 1323 (S.B. 471), § 6 provides: "Subsection (a), Section 11.252, Education Code, as amended by this Act, applies beginning with the 2011-2012 school year."

Sec. 11.253. Campus Planning and Site-Based Decision-Making.

(a) Each school district shall maintain current policies and procedures to ensure that effective planning and site-based decision-making occur at each campus to direct and support the improvement of student performance for all students.

(b) Each district's policy and procedures shall establish campus-level planning and decision-making committees as provided for through the procedures provided by Sections 11.251(b)—(e).

(c) Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Subchapter A, Chapter 29, with respect to the student achievement indicators adopted under Section 39.053 and any other appropriate performance measures for special needs populations.

(d) Each campus improvement plan must:

(1) assess the academic achievement for each student in the school using the student achievement indicator system as described by Section 39.053;

(2) set the campus performance objectives based on the student achievement indicator system, including objectives for special needs populations, including students in special education programs under Subchapter A, Chapter 29;

(3) identify how the campus goals will be met for each student;

(4) determine the resources needed to implement the plan;

(5) identify staff needed to implement the plan;

(6) set timelines for reaching the goals;

(7) measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement;

(8) include goals and methods for violence prevention and intervention on campus;

(9) provide for a program to encourage parental involvement at the campus; and

(10) if the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on:

(A) student fitness assessment data, including any data from research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;

(B) student academic performance data;

(C) student attendance rates;

(D) the percentage of students who are educationally disadvantaged;

(E) the use and success of any method to ensure that students participate in moderate to vigorous physical activity as required by Section 28.002(*l*); and

(F) any other indicator recommended by the local school health advisory council.

(e) In accordance with the administrative procedures established under Section 11.251(b), the campus-level committee shall be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. The campus-level committee must approve the portions of the campus plan addressing campus staff development needs.

(f) This section does not create a new cause of action or require collective bargaining.

(g) Each campus-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from the agency to discuss the performance of the campus and the campus performance objectives. District policy and campus procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input, and to provide information to those persons regarding the recommendations of the campus-level committees.

(h) A principal shall regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 510 (S.B. 1724), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1202 (S.B. 476), § 3, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 1365 (H.B. 1104), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.003, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 500 (S.B. 892), § 1, effective

June 19, 2009; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 11, effective June 19, 2009.)

Sec. 11.254. State Responsibilities for the Planning and Decision-Making Process.

(a) The commissioner shall oversee the provision of training and technical support to all districts and campuses in respect to planning and site-based decision-making through one or more sources, including regional education service centers, for school board trustees, superintendents, principals, teachers, parents, and other members of school committees.

(b) The agency shall conduct an annual statewide survey of the types of district- and campus-level decision-making and planning structures that exist, the extent of involvement of various stakeholders in district- and campus-level planning and decision-making, and the perceptions of those persons of the quality and effectiveness of decisions related to their impact on student performance.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.255. Dropout Prevention Review.

(a) Each district-level planning and decision-making committee and each campus-level planning and decision-making committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including:

(1) the results of the audit of dropout records required by Section 39.308;

(2) campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade level 9;

(3) the number of students who enter a high school equivalency certificate program and:

(A) do not complete the program;

(B) complete the program but do not take the high school equivalency examination; or

(C) complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;

(4) for students enrolled in grade levels 9 and 10, information related to academic credit hours earned, retention rates, and placements in alternative education programs and expulsions under Chapter 37; and

(5) the results of an evaluation of each school-based dropout prevention program in the district.

(b) Each district-level planning and decision-making committee and each campus-level planning and decision-making committee shall use the information reviewed under this section in developing district or campus improvement plans under this subchapter.

(Enacted by Acts 2003, 78th Leg., ch. 1201 (S.B. 976), § 1, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 12, effective June 19, 2009.)

SUBCHAPTER G
LAW APPLICABLE TO CERTAIN SCHOOL DISTRICTS AND COUNTY SYSTEMS

Sec. 11.301. Application of Former Law.

(a) A school district or county system operating under former Chapter 17, 18, 22, 25, 26, 27, or 28 on May 1, 1995, may continue to operate under the applicable chapter as that chapter existed on that date and under state law generally applicable to school districts that does not conflict with that chapter.

(b) A school district operating under former Chapter 22 may incorporate and become an independent school district in the manner provided by former Subchapter F, Chapter 19, as that subchapter existed on May 1, 1995.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 304 (H.B. 2964), § 2, effective September 1, 2003.)

Sec. 11.302. Public Information.

The governing body of a school district or county system to which Section 11.301 applies shall make available to the public for inspection and copying during regular operating hours a copy of the provisions under which the district or county system operates that are specific to that type of district or county system.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.303. Municipal School Districts.

(a) Except as otherwise provided by this section, a school district operating under former Chapter 24 may continue to operate under that chapter as it existed on May 1, 1995, and under state law generally applicable to school districts that does not conflict with that chapter.

(b) The governing body of the municipality may participate in annual hearings or work sessions held by the board of trustees of the municipal school district on the budget and ad valorem tax rate for the coming year.

(c) The board of trustees of a municipal school district and the governing body of the municipality shall jointly hold any hearing required by law as a condition for the adoption of an annual budget and imposition of an ad valorem tax.

(d) Neither an annual budget for a municipal school district nor an ad valorem tax to be imposed for the district may be adopted without the affirmative vote of:

(1) a majority of the members of the board of trustees of the municipal school district present and voting; and

(2) at least three-quarters of the total of the voting members of the board of trustees and the governing body of the municipality that are present and voting.

(e) If a quorum of the members of the governing body of the municipality is not present at a meeting required under Subsection (c), the board of trustees may adopt a budget or an ad valorem tax rate without regard to the requirements of Subsection (d).

(f) Notwithstanding former Section 24.06(c), as it existed on May 1, 1995, the governing body of the municipality shall adopt an ordinance providing for the levy and assessment of the tax approved pursuant to Subsection (d) or (e).

(g) After adopting an ordinance levying a tax for the municipal school district, the governing body of the municipality shall provide a certified copy of the ordinance to the district's board of trustees.

(h) This section may not be construed as authorizing the governing body of a municipality to levy a tax for the support of schools of a municipal school district without fully complying with all applicable provisions of the Tax Code.

(Enacted by Acts 2003, 78th Leg., ch. 304 (H.B. 2964), § 1, effective September 1, 2003.)

Sec. 11.304. Write-In Voting: Common School District Board Election.

The procedures for write-in voting prescribed for an election for trustees of an independent school district under Section 11.056 apply to an election for trustees of a common school district operating under former Chapter 22 as that chapter existed on May 1, 1995.

(Enacted by Acts 2007, 80th Leg., ch. 283 (H.B. 606), § 1, effective June 15, 2007.)

SUBCHAPTER H SPECIAL-PURPOSE SCHOOL DISTRICTS

Sec. 11.351. Authority to Establish Special-Purpose School District.

(a) On the recommendation of the commissioner and after consulting with the school districts involved and obtaining the approval of a majority of those districts in each affected county in which a proposed school district is located, the State Board of Education may establish a special-purpose school district for the education of students in special situations whose educational needs are not adequately met by regular school districts. The board may impose duties or limitations on the school district as necessary for the special purpose of the district. The board shall exercise the powers as provided by this section relating to the districts established under this section.

(b) The State Board of Education shall grant to the districts the right to share in the available school fund apportionment and other privileges as are granted to independent and common school districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.352. Governance of Special-Purpose District.

(a) The State Board of Education shall appoint for each district established under Section 11.351 a board of three, five, or seven trustees, as determined by the State Board of Education. A trustee is not required to be a resident of the district.

(b) For each military reservation school district, the State Board of Education may appoint a board of three or five trustees. Enlisted military personnel and military officers may be appointed to the school board. A majority of the trustees appointed for the district must be civilians and all may be civilians. The trustees shall be selected from a list of persons who are qualified to serve as members of a school district board of trustees under Section 11.061 and who live or are employed on the military reservation. The list shall be furnished to the board by the commanding officer of the military reservation. The trustees appointed serve terms of two years.

(c) The State Board of Education may adopt rules for the governance of a special-purpose district. In the absence of a rule adopted under this subsection, the laws applicable to independent school districts apply to a special-purpose district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 982 (H.B. 328), § 3, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 676 (S.B. 144), § 1, effective June 17, 2005.)

Sec. 11.353. Admission and Attendance.

A child is eligible to attend school in a military reservation school district if the child is eligible

under Section 25.001 and is the child of an officer, soldier, or civilian employee residing or employed on the reservation. The board of trustees may transfer any child who cannot be provided for by the district of the child's residence to any school district maintaining adequate facilities and standards for elementary, junior, or senior high schools, as applicable.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.354. Abolition of Special-Purpose District.

On the written request signed by a majority of the board of trustees of a military reservation school district, the State Board of Education may abolish the district. The State Board of Education shall give written notice to the board of trustees requesting abolition. The territory of the abolished district and property of the district shall be disposed of as provided by Section 13.205.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.355. Annexation of Additional Territory by Certain Special-Purpose Districts.

(a) Any military reservation territory that is subject to the same post or base command as a military reservation used to house dependents of military and civilian personnel and that wholly contains an independent school district, whether or not the reservations are contiguous, may be annexed to that reservation independent school district by the State Board of Education on petition of that post or base commander.

(b) If a military reservation territory has been annexed to an independent school district of the same post or base command under Subsection (a) and the territory is no longer used to house dependents of military and civilian personnel, the State Board of Education, on petition of the post or base command, or on petition of a majority of the trustees of the school district from which the territory was originally detached, may detach the territory from the military reservation constituting an independent school district and annex it to the school district from which it was originally detached.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 11.356. Support of Students Enrolled in Special-Purpose School Districts.

The independent or common school district that is responsible for providing education services to a student who is enrolled in a special-purpose school district established under Section 11.351 shall share the cost of the student's education in the manner provided under Section 30.003 for students enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf unless the State Board of Education finds that the student's education in a particular special-purpose school or school district is not the responsibility of the independent or common school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

CHAPTER 12
CHARTERS

Subchapter A. General Provisions

Subchapter B. Home-Rule School District Charter

Subchapter C. Campus or Campus Program Charter

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 12.001. Purposes of Chapter.

(a) The purposes of this chapter are to:

(1) improve student learning;

(2) increase the choice of learning opportunities within the public school system;

(3) create professional opportunities that will attract new teachers to the public school system;

(4) establish a new form of accountability for public schools; and

(5) encourage different and innovative learning methods.

(b) This chapter shall be applied in a manner that ensures the fiscal and academic accountability of persons holding charters issued under this chapter. This chapter may not be applied in a manner that unduly regulates the instructional methods or pedagogical innovations of charter schools.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 1, effective September 1, 2001.)

Sec. 12.0011. Alternative Method of Operation.

As an alternative to operating in the manner generally provided by this title, an independent school district, a school campus, or an educational program may choose to operate under a charter in accordance with this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 1, effective September 1, 2001 (renumbered from Sec. 12.001).)

Sec. 12.002. Classes of Charter.

The classes of charter under this chapter are:

(1) a home-rule school district charter as provided by Subchapter B;

(2) a campus or campus program charter as provided by Subchapter C; or

(3) an open-enrollment charter as provided by Subchapter D.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.003. Authority of Board of Trustees to Grant Other Charters.

This chapter does not limit the authority of the board of trustees of a school district to grant a charter to a campus or program to operate in accordance with the other provisions of this title and rules adopted under those provisions.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER B
HOME-RULE SCHOOL DISTRICT CHARTER

Sec. 12.011. Authorization and Status.

(a) In accordance with this subchapter, a school district may adopt a home-rule school district charter under which the district will operate.

(b) The adoption of a home-rule school district charter by a school district does not affect:

(1) the district's boundaries; or

(2) taxes or bonds of the district authorized before the effective date of the charter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.012. Applicability of Laws and Rules to Home-Rule School District.

(a) A home-rule school district is subject to federal and state laws and rules governing school districts, except that a home-rule school district is subject to:

(1) this code only to the extent that the applicability to a home-rule school district of a provision of this code is specifically provided;

(2) a rule adopted under this code by the State Board of Education or the commissioner only if the code provision authorizing the rule specifically applies to a home-rule school district; and

(3) all requirements of federal law and applicable court orders relating to eligibility for and the provision of special education and bilingual programs.

(b) An employee of a home-rule school district who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee employed by an independent school district is covered.

(c) This section does not permit a home-rule school district to discriminate against a student who has been diagnosed as having a learning disability, including dyslexia or attention deficit/hyperactivity disorder. Discrimination prohibited by this subsection includes denial of placement in a gifted and talented program if the student would otherwise be qualified for the program but for the student's learning disability. This section does not permit a home-rule school district to, on the basis of race, socioeconomic status, learning disability, or family support status, place a student in a program other than the highest-level program necessary to ensure the student's success.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.013. Applicability of Title.

(a) A home-rule school district has the powers and entitlements granted to school districts and school district boards of trustees under this title, including taxing authority.

(b) A home-rule school district is subject to:

(1) a provision of this title establishing a criminal offense;

(2) a provision of this title relating to limitations on liability; and

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;

(C) criminal history records under Subchapter C, Chapter 22;

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085, 25.086, and 25.087;

(F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that fails to satisfy any standard under Section 39.054(e);

(H) high school graduation under Section 28.025;

(I) special education programs under Subchapter A, Chapter 29;

(J) bilingual education under Subchapter B, Chapter 29;

(K) prekindergarten programs under Subchapter E, Chapter 29;

(L) safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004, and 34.008;

(M) computation and distribution of state aid under Chapters 31, 42, and 43;

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

(P) public school accountability under Subchapters B, C, D, E, and J, Chapter 39;

(Q) equalized wealth under Chapter 41;

(R) a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

(S) purchasing under Chapter 44.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 2, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 13, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.001, effective September 1, 2011.)

Sec. 12.014. Appointment of Charter Commission.

The board of trustees of a school district shall appoint a charter commission to frame a home-rule school district charter if:

(1) the board receives a petition requesting the appointment of a charter commission to frame a home-rule school district charter signed by at least five percent of the registered voters of the district; or

(2) at least two-thirds of the total membership of the board adopt a resolution ordering that a charter commission be appointed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.015. Charter Commission.

(a) Not later than the 30th day after the date of receipt of a petition or adoption of a resolution under Section 12.014, the board of trustees of the school district shall appoint 15 residents of the district to serve on the commission to frame a charter for the district.

(b) The membership of the charter commission must reflect the racial, ethnic, socioeconomic, and geographic diversity of the district. A majority of the members appointed to the commission must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by the representatives of the professional staff pursuant to Section 11.251(e).

(c) The charter commission must complete a proposed charter not later than the first anniversary of the date of its appointment. After that date, the commission expires and the appointment under Section 12.014 is void.

(d) A charter commission appointed under this section is considered a governmental body for purposes of Chapters 551 and 552, Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.016. Content.

Each home-rule school district charter must:

(1) describe the educational program to be offered;

(2) provide that continuation of the home-rule school district charter is contingent on:

(A) acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39; and

(B) compliance with other applicable accountability provisions under Chapter 39;

(3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked;

(4) describe the governing structure of the district and campuses;

(5) specify any procedure or requirement, in addition to those under Chapter 38, that the district will follow to ensure the health and safety of students and employees;

(6) describe the process by which the district will adopt an annual budget, including a description of the use of program-weight funds;

(7) describe the manner in which an annual audit of financial and programmatic operations of the district is to be conducted, including the manner in which the district will provide information necessary for the district to participate in the Public Education Information Management System (PEIMS) to the extent required by this subchapter; and

(8) include any other provision the charter commission considers necessary.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.017. Determination of Compliance with Voting Rights Act.

(a) The charter commission shall submit the proposed charter to the secretary of state. The secretary of state shall determine whether a proposed charter contains a change in the governance of the school district.

(b) If the secretary of state determines that a proposed charter contains a change in the governance of the school district, the secretary of state shall, not later than the second working day after the date the secretary of state makes that determination, notify the board of trustees of the school district. The board shall submit the proposed change to the United States Department of Justice or the United States District Court for the District of Columbia for preclearance under the Voting Rights Act (42 U.S.C. Section 1973c et seq.).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.018. Legal Review.

The charter commission shall submit the proposed charter to the commissioner. As soon as practicable, but not later than the 30th day after the date the commissioner receives the proposed charter, the commissioner shall review the proposed charter to ensure that the proposed charter complies with any applicable laws and shall recommend to the charter commission any modifications necessary. If the commissioner does not act within the prescribed time, the proposed charter is approved.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.019. Charter Election.

(a) As soon as practicable after approval of a home-rule school district charter under Section 12.018, the board of trustees of the district shall order an election on the proposed charter.

(b) The proposed charter shall be submitted to the voters of the district at an election to be held on the first uniform election date that occurs at least 45 days after the date on which the board of trustees orders the election.

(c) At least three copies of the proposed charter must be available in the office of each school campus in the district and at the district's central administrative office between the date of the election order and election day. Notice of the election must include a statement of where and how copies may be obtained or viewed. A summary of the content of the proposed charter shall be attached to each copy. The summary also shall be made available to school district employees, parents, community members, and members of the media.

(d) The ballot shall be printed to permit voting for or against the proposition "Whether the (name of school district) School District shall be governed under the home-rule school district charter, which is proposed by a charter commission appointed by the board of trustees and under which only certain laws and rules apply to the district."

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.020. Charter Amendment.

(a) The governing body of a home-rule school district on its own motion may submit a proposed charter amendment that complies with this subchapter to the commissioner for legal review.

(b) The governing body shall submit a proposed charter amendment that complies with this subchapter to the commissioner for legal review if a petition submitted to the governing body proposing the charter amendment is signed by at least five percent of the registered voters of the district.

(c) As soon as practicable, but not later than the 30th day after the date on which the requirements for an election under Subsection (a) or (b) are satisfied, the commissioner shall review the proposed amendment to ensure that the proposed amendment complies with any applicable laws and shall recommend any modifications necessary. If the commissioner does not act within the prescribed time, the proposed charter amendment is approved.

(d) As soon as practicable after commissioner review under Subsection (c), the governing body of the district shall order an election on the proposed amendment.

(e) An election under this section shall be held on the first uniform election date that occurs at least 45 days after the date the election is ordered.

(f) Notice of the election must include a substantial copy of the proposed charter amendment.

(g) A charter amendment may not contain more than one subject.

(h) The ballot shall be prepared so that a voter may approve or disapprove any one or more charter amendments without having to approve or disapprove all of the charter amendments.

(i) The governing body may not order an election on a proposed charter amendment earlier than the first anniversary of the date of any previous election to amend the charter.

(j) Section 12.017 applies to a proposed charter amendment, except that the governing body shall submit the proposed charter amendment to the secretary of state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.021. Adoption of Charter or Charter Amendment.

(a) Subject to Section 12.022, a proposed home-rule school district charter or a proposed charter amendment is adopted if approved by a majority of the qualified voters of the district voting at an election held for that purpose.

(b) A charter or charter amendment shall specify an effective date and takes effect according to its terms when the governing body of the school district enters an order declaring that the charter or charter amendment is adopted. The governing body shall enter an order not later than the 10th day after the date the canvass of the election returns is completed.

(c) As soon as practicable after a school district adopts a home-rule school district charter or charter amendment, the board of trustees or governing body shall notify the commissioner of the outcome of the election.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.022. Minimum Voter Turnout Required.

(a) An election on the adoption of a proposed home-rule school district charter has no effect unless at least 25 percent of the registered voters of the district vote in the election in which the adoption of the charter is on the ballot.

(b) An election on the adoption of a proposed amendment to a home-rule school district charter has no effect unless at least 20 percent of the registered voters of the district vote in the election in which the adoption of the amendment is on the ballot.

(c) If the required number of voters prescribed by Subsection (a) or (b) do not vote in the election, the board of trustees shall order an election on the issue to be held on the first uniform election date:

(1) that occurs at least 45 days after the date the election is ordered; and

(2) on which one or more elections are to be held, the combination of which covers all of the territory of the school district.

(d) If the required number of voters prescribed by Subsection (a) or (b) do not vote at an election ordered as required by Subsection (c), the board of trustees may continue to order elections on the issue in accordance with Subsection (c) until the required minimum voter turnout is achieved.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.023. Certification of Charter or Charter Amendment.

(a) As soon as practicable after a school district adopts a home-rule school district charter or charter amendment, the president of the board of trustees shall certify to the secretary of state a copy of the charter or amendment showing the approval by the voters of the district.

(b) The secretary of state shall file and record the certification in the secretary of state's office.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.024. Effect of Recording Charter or Charter Amendment.

A recorded charter or charter amendment is a public act. A court shall take judicial notice of a recorded charter or charter amendment and proof is not required of its provisions.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.025. Governance.

(a) A home-rule school district may adopt and operate under any governing structure.

(b) The district may:

(1) create offices;

(2) determine the time and method for selecting officers; and

(3) prescribe the qualifications and duties of officers.

(c) The term of any officer of the district is determined under Section 11.059.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.026. Change in Governing Body.

If the adoption, amendment, or revocation of a home-rule school district charter changes the structure of the governing body of the school district, the members of the governing body serving on the date the adoption, amendment, or revocation takes effect continue in office until their successors are chosen and have qualified for office.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.027. Basis for Placement on Probation or Revocation of Charter.

(a) The State Board of Education may place on probation or revoke a home-rule school district charter of a school district if the board determines that the district:

(1) committed a material violation of the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management; or

(3) failed to comply with this subchapter or other applicable federal or state law or rule.

(b) The action the board takes under Subsection (a) shall be based on the best interest of district students, the severity of the violation, and any previous violation the district has committed.

(c) A district whose home-rule school district charter is revoked or rescinded under this subchapter shall operate under the other provisions of Title 1 and this title that apply to school districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.028. Procedure for Placement on Probation or Revocation.

(a) The State Board of Education by rule shall adopt a procedure to be used for placing on probation or revoking a home-rule school district charter.

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the district and to parents of district students. A hearing under this subsection must be held in the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.029. Status of District in Case of Annexation or Consolidation.

(a) If a school district is annexed to another district under Chapter 13, and only one of the districts has a home-rule school district status, the status, as a home-rule or other type of school district, of the receiving district is the status for both districts following annexation.

(b) Except as provided by Subchapter H, Chapter 41, if two or more school districts having different status, one of which is home-rule school district status, consolidate into a single district, the petition under Section 13.003 initiating the consolidation must state the status for the consolidated district. The ballot shall be printed to permit voting for or against the proposition: "Consolidation of (names of school districts) into a single school district governed as (status of school district specified in the petition)."

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.030. Rescission of Charter.

(a) A home-rule school district charter may be rescinded as provided by this section.

(b) The governing body of the district shall order an election on the question of rescinding a home-rule school district charter if:

(1) the governing body receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or

(2) at least two-thirds of the total membership of the governing body adopt a resolution ordering that a rescission election be held.

(c) As soon as practicable after the date of receipt or adoption of a resolution under Subsection (b), the governing body shall order an election.

(d) The proposition to rescind the home-rule school district charter shall be submitted to the voters of the district at an election to be held on the first uniform election date that occurs at least 45 days after the date on which the governing body orders the election.

(e) The ballot shall be printed to permit voting for or against the proposition: "Whether the home-rule school district charter of (name of school district) shall be rescinded so that the school district becomes an independent school district."

(f) A home-rule school district charter is rescinded if the rescission is approved by a majority of the qualified voters of the district voting at an election held for that purpose at which at least 25 percent of the registered voters of the district vote.

(g) The rescission takes effect on a date established by resolution of the governing body but not later than the 90th day after the date of an election held under this section at which rescission of the charter is approved and at which the number of registered voters required under Subsection (f) vote. As soon as practicable after that election, the governing body shall notify the commissioner and the secretary of state of the results of the election and of the effective date of the rescission.

(h) The rescission of a home-rule school district charter under this section does not affect:

(1) the district's boundaries; or

(2) taxes or bonds of the district authorized before the effective date of the rescission.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
CAMPUS OR CAMPUS PROGRAM CHARTER

Sec. 12.051. Definitions.

In this subchapter:

(1) "Parent" means the parent who is indicated on the student registration form at that school campus.

(2) "Board" and "board of trustees" mean the board of trustees of a school district or the governing body of a home-rule school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.052. Authorization.

(a) In accordance with this subchapter, the board of trustees of a school district or the governing body of a home-rule school district shall grant or deny, through a public vote of the board of trustees or governing body, a charter to parents and teachers for a campus or a program on a campus if the board is presented with a petition signed by:

(1) the parents of a majority of the students at that school campus; and

(2) a majority of the classroom teachers at that school campus.

(b) For purposes of Subsection (a)(1), the signature of only one parent of a student is required.

(c) The board of trustees may not arbitrarily deny a charter under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 2, effective September 1, 2013.)

Sec. 12.0521. Alternative Authorization.

(a) Notwithstanding Section 12.052, in accordance with this subchapter and in the manner provided by this section, the board of trustees of a school district or the governing body of a home-rule school district may grant a charter for:

(1) a new district campus; or

(2) a program that is operated:

(A) by an entity that has entered into a contract with the district under Section 11.157 to provide educational services to the district through the campus or program; and

(B) at a facility located in the boundaries of the district.

(b) A student's parent or guardian may choose to enroll the student at a campus or in a program under this section. A school district may not assign a student to a campus or program under this section unless the student's parent or guardian has voluntarily enrolled the student at the campus or in the program. A student's parent or guardian may, at any time, remove the student from a campus or program under this section and enroll the student at the campus to which the student would ordinarily be assigned.

(c) A school district may not assign to a campus or program under this section a teacher who has signed a written statement that the teacher does not agree to that assignment.

(Enacted by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 1, effective June 20, 2003.)

Sec. 12.0522. District Charter Authorization.

(a) Notwithstanding Section 12.052, in the manner provided by this section, the board of trustees of a school district or the governing body of a home-rule school district may grant a district charter to a campus to the extent authorized under this section.

(b) Except as otherwise provided by this subsection or Subsection (c), a district charter may be granted under this section only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year. The percentage limit may not prevent a district from granting a district charter to at least one feeder pattern of schools, including an elementary, middle or junior high, and high school.

(c) A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C, Chapter 39.

(d) Subchapter D applies to a campus granted a district charter under this section as though the campus were granted a charter under Subchapter D, and the campus is considered an open-enrollment charter school.

(e) A charter granted under this section is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Section 12.101.

(f) The commissioner may adopt rules as necessary for the administration of this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 3, effective September 1, 2013.)

Sec. 12.053. Cooperative Campus Charter.

(a) The board of trustees may grant a charter to parents and teachers at two or more campuses in the

district for a cooperative charter program if the board is presented with a petition signed by:

(1) the parents of a majority of the students at each school campus; and

(2) a majority of the classroom teachers at each school campus.

(b) For purposes of Subsection (a)(1), the signature of only one parent is required.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.0531. Performance Contract; Duration of Charter.

If a charter is granted under this subchapter, the board of trustees of the school district that granted the charter shall enter into a performance contract with the principal or equivalent chief operating officer of the campus or program. The performance contract must specify enhanced authority granted to the principal or equivalent officer in order to achieve the academic goals that must be met by campus or program students. A charter granted under this subchapter expires 10 years from the date the charter is granted unless the specified goals are substantially met, as determined by the board of trustees of the school district that granted the charter.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 4, effective September 1, 2013.)

Sec. 12.0532. Neighborhood School.

(a) A charter granted under this subchapter for a campus may, as determined by the board of trustees of the school district granting the charter, provide for the campus to be a neighborhood school.

(b) Except as otherwise provided by this subsection, the principal or equivalent chief operating officer of a neighborhood school shall manage the funding provided for the school under this code and any other funding provided for the school in the manner the principal or other officer determines best meets the needs of the school's students. The district in which the school is located may retain that portion of funding that the district generally withholds from a campus for costs associated with the salary of the district superintendent or other district governance.

(c) The principal or equivalent chief operating officer of a neighborhood school may use school funding to purchase from the school district in which the school is located services for the school, including bus service, facilities maintenance services, and other services generally provided by a school district to district campuses. The school shall pay for each service an amount that reflects the actual cost to the district of providing the service for the number of the school's students for which the service is provided.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 4, effective September 1, 2013.)

Sec. 12.054. Authority Under Charter.

A campus or program for which a charter is granted under this subchapter:

(1) is exempt from the instructional and academic rules and policies of the board of trustees from which the campus or program is specifically exempted in the charter; and

(2) retains authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter in accordance with Section 12.059.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 2, effective September 1, 1997.)

Sec. 12.055. Applicability of Laws and Rules to Campus or Program Granted Charter.

(a) A campus or program for which a charter is granted under this subchapter is subject to federal and state laws and rules governing public schools, except that the campus or program is subject to this code and rules adopted under this code only to the extent the applicability to a campus or program for which a charter is granted under this subchapter of a provision of this code or a rule adopted under this code is specifically provided.

(b) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1078]** A school district may contract with another district or an open-enrollment charter holder for services at a campus charter. An employee of the district or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder.

(b) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1140]** A school district may contract with another district or an open-enrollment charter school for services at a campus charter. An employee of the district or open-enrollment charter school providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd

Leg., ch. 1078 (H.B. 3357), § 21, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 5, effective September 1, 2013.)

Sec. 12.056. Applicability of Title.

(a) A campus or program for which a charter is granted under this subchapter has the powers granted to schools under this title.

(b) A campus or program for which a charter is granted under this subchapter is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) high school graduation under Section 28.025;

(D) special education programs under Subchapter A, Chapter 29;

(E) bilingual education under Subchapter B, Chapter 29;

(F) prekindergarten programs under Subchapter E, Chapter 29;

(G) extracurricular activities under Section 33.081;

(H) health and safety under Chapter 38; and

(I) public school accountability under Subchapters B, C, D, E, F, and J, Chapter 39.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 14, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 6, effective September 1, 2013.)

Sec. 12.057. Status.

(a) With respect to the operation of a campus or program granted a charter under this subchapter, the governing body of the campus or program provided for under the charter is considered a governmental body for purposes of Chapters 551 and 552, Government Code.

(b) An employee of an independent school district who is employed on a campus or program granted a charter under this subchapter and who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

(b-1) An employee of a charter holder, as defined by Section 12.1012, who is employed on a campus or in a program granted a charter under this subchapter and who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

(c) A campus or program granted a charter under Section 12.052, 12.0521(a)(1), or 12.053 is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 22, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 7, effective September 1, 2013.)

Sec. 12.058. Charter Policy.

Each school district shall adopt a campus charter and program charter policy. The policy must specify:

(1) the process to be followed for approval of a campus charter or a program charter;

(2) the statutory requirements with which a campus charter or program charter must comply; and

(3) the items that must be included in a charter application.

(Enacted by Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 2, effective June 20, 2003.)

Sec. 12.059. Content.

Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which may be a general or specialized program;

(2) provide that continuation of the charter is contingent on satisfactory student performance under Subchapter B, Chapter 39, satisfactory financial performance under Subchapter D, Chapter 39, and compliance with other applicable accountability provisions under Chapter 39;

(3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be revoked;

(4) prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;

(5) describe the governing structure of the campus or program;

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by commissioner rule, in the Public Education Information Management System (PEIMS).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.058); am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 8, effective September 1, 2013.)

Sec. 12.060. Form.

A charter shall be in the form and substance of a written contract signed by the president of the board of trustees granting the charter and the chief operating officer of the campus or program for which the charter is granted.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.059).)

Sec. 12.061. Charter Granted.

Each charter a board of trustees grants under this subchapter must:

(1) satisfy this subchapter; and

(2) include the information that is required under Section 12.059 consistent with the information provided in the application and any modification the board requires.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.060).)

Sec. 12.062. Revision.

(a) A charter granted under Section 12.052 or 12.053 may be revised:

(1) with the approval of the board of trustees that granted the charter; and

(2) on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

(b) A charter granted under Section 12.0521 may be revised with the approval of the board of trustees that granted the charter. A charter may be revised under this subsection only before the first day of instruction of a school year or after the final day of instruction of a school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.061); am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 2, effective June 20, 2003.)

Sec. 12.063. Basis for Placement on Probation or Revocation.

(a) A board of trustees may place on probation or revoke a charter it grants if the board determines that the campus or program:

(1) committed a material violation of the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management; or

(3) failed to comply with this subchapter, another law, or a state agency rule.

(b) The action the board takes under Subsection (a) shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.062).)

Sec. 12.064. Procedure for Placement on Probation or Revocation.

(a) Each board of trustees that grants a charter under this subchapter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the campus or program for which a charter is granted under this subchapter and to parents and guardians of students at the campus or in the program. A hearing under this subsection must be held on the campus or on one of the campuses in the case of a cooperative charter program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.063).)

Sec. 12.065. Admission.

(a) Eligibility criteria for admission of students to the campus or program for which a charter is granted under this subchapter must give priority on

the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials in general or in a specific area, as necessary for the type of program offered.

(b) The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1335 (S.B. 1653), § 1, effective September 1, 1997 (renumbered from Sec. 12.064).)

SUBCHAPTER D
OPEN-ENROLLMENT CHARTER SCHOOL

Sec. 12.101. Authorization.

(a) In accordance with this subchapter, the commissioner may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(4) a governmental entity.

(b) After thoroughly investigating and evaluating an applicant, the commissioner, in coordination with a member of the State Board of Education designated for the purpose by the chair of the board, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:

(1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or

(2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.

(b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.

(b-1) In granting charters for open-enrollment charter schools, the commissioner may not grant a total of more than:

(1) 215 charters through the fiscal year ending August 31, 2014;

(2) 225 charters beginning September 1, 2014;

(3) 240 charters beginning September 1, 2015;

(4) 255 charters beginning September 1, 2016;

(5) 270 charters beginning September 1, 2017; and

(6) 285 charters beginning September 1, 2018.

(b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.

(b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.

(b-4) Notwithstanding Section 12.114, approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection, including the absence of commissioner disapproval under Subdivision (3), are satisfied. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter 39, or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years may establish one or more new campuses under an existing charter held by the charter holder if:

(1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter 39 and received a district rating in the highest or second highest per-

formance rating category under Subchapter C, Chapter 39, for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;

(2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and

(3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder of disapproval of a new campus under this section.

(b-5) The initial term of a charter granted under this section is five years.

(b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery school under Section 12.1141(c).

(b-8) In adopting any financial standards under this subchapter that an applicant for a charter for an open-enrollment charter school must meet, the commissioner shall not:

(1) exclude any loan or line of credit in determining an applicant's available funding; or

(2) exclude an applicant from the grant of a charter solely because the applicant fails to demonstrate having a certain amount of current assets in cash.

(c) If the facility to be used for an open-enrollment charter school is a school district facility, the school must be operated in the facility in accordance with the terms established by the board of trustees or other governing body of the district in an agreement governing the relationship between the school and the district.

(d) An educator employed by a school district before the effective date of a charter for an open-enrollment charter school operated at a school district facility may not be transferred to or employed by the open-enrollment charter school over the educator's objection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 193 (H.B. 1564), § 1, effective June 2, 2003; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 9, effective September 1, 2013.)

Sec. 12.1011. Charter Authorization for High-Performing Entities.

(a) Notwithstanding Section 12.101(b), the commissioner may grant a charter for an open-enrollment charter school to an applicant that is:

(1) an eligible entity under Section 12.101(a)(3) that proposes to operate the charter school program of a charter operator that operates one or more charter schools in another state and with which the eligible entity is affiliated and, as determined by the commissioner in accordance with commissioner rule, has performed at a level of performance comparable to performance under the highest or second highest performance rating category under Subchapter C, Chapter 39; or

(2) an entity that has operated one or more charter schools established under this subchapter or Subchapter C or E and, as determined by the commissioner in accordance with commissioner rule, has performed in the highest or second highest performance rating category under Subchapter C, Chapter 39.

(b) A charter holder granted a charter for an open-enrollment charter school under Subsection (a) may vest management of corporate affairs in a member entity provided that the member entity may change the members of the governing body of the charter holder before the expiration of a member's term only with the express written approval of the commissioner.

(c) The initial term of a charter granted under this section is five years.

(d) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories under Subchapter C, Chapter 39.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 10, effective September 1, 2013.)

Sec. 12.1012. Definitions.

In this subchapter:

(1) "Charter holder" means the entity to which a charter is granted under this subchapter.

(2) "Governing body of a charter holder" means the board of directors, board of trustees, or other governing body of a charter holder.

(3) "Governing body of an open-enrollment charter school" means the board of directors, board of trustees, or other governing body of an open-enrollment charter school. The term includes the governing body of a charter holder if that body acts as the governing body of the open-enrollment charter school.

(4) "Management company" means a person, other than a charter holder, who provides management services for an open-enrollment charter school.

(5) "Management services" means services related to the management or operation of an open-enrollment charter school, including:

(A) planning, operating, supervising, and evaluating the school's educational programs, services, and facilities;

(B) making recommendations to the governing body of the school relating to the selection of school personnel;

(C) managing the school's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the school a proposed budget;

(E) recommending policies to be adopted by the governing body of the school, developing appropriate procedures to implement policies adopted by the governing body of the school, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the school based on the indicators adopted under Sections 39.053 and 39.301 or by the governing body of the school.

(6) "Officer of an open-enrollment charter school" means:

(A) the principal, director, or other chief operating officer of an open-enrollment charter school;

(B) an assistant principal or assistant director of an open-enrollment charter school; or

(C) a person charged with managing the finances of an open-enrollment charter school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 3, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 15, effective June 19, 2009.)

Sec. 12.1013. Charter Authorizer Accountability.

(a) The commissioner shall select a center for education research authorized by Section 1.005 to prepare an annual report concerning the performance of open-enrollment charter schools by authorizer compared to campus charters and matched traditional campuses, which shall be provided annually under Subchapters J and K, Chapter 39.

(b) The format of the report must enable the public to distinguish and compare the performance of each type of public school by classifying the schools as follows:

(1) open-enrollment charters granted by the State Board of Education;

(2) open-enrollment charters granted by the commissioner;

(3) charters granted by school districts; and

(4) matched traditional campuses.

(c) The report must include the performance of each public school in each class described by Subsection (b) as measured by the student achievement indicators adopted under Section 39.053 and student attrition rates.

(d) The report must also:

(1) aggregate and compare the performance of open-enrollment charter schools granted charters by the State Board of Education, open-enrollment charter schools granted charters by the commissioner, campuses and programs granted charters by school districts, and matched traditional campuses; and

(2) rate the aggregate performance of elementary, middle or junior high, and high schools within each class described by Subsection (b) as indicated by the composite rating that would be assigned to the class of elementary, middle or junior high, and high schools if the students attending all schools in that class were cumulatively enrolled in one elementary, middle or junior high, or high school.

(e) The report must also include an analysis of whether the performance of matched traditional campuses would likely improve if there were consolidation of school districts within the county in which the campuses are located. This subsection applies only to a county that includes at least seven school districts and at least 10 open-enrollment charter schools.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 11, effective September 1, 2013.)

Sec. 12.1014. Authorization for Grant of Charters for Schools Primarily Serving Students with Disabilities.

(a) The commissioner may grant under Section 12.101 a charter on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students eligible to receive services under Subchapter A, Chapter 29.

(b) The limit on the number of charters for open-enrollment charter schools imposed by Section 12.101 does not apply to a charter granted under

this section to a school at which at least 50 percent of the students are eligible to receive services under Subchapter A, Chapter 29. Not more than five charters may be granted for schools described by this subsection.

(c) For purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a charter is granted under Section 12.101.

(d) To the fullest extent permitted under federal law, a parent of a student with a disability may choose to enroll the parent's child in an open-enrollment charter school described by Subsection (a) regardless of whether a disproportionate number of the school's students are students with disabilities.

(e) This section does not authorize an open-enrollment charter school to discriminate in admissions or in the services provided based on the presence, absence, or nature of an applicant's or student's disability.

(f) The commissioner and the State Board for Educator Certification shall adopt rules as necessary to administer this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 48 provides: "The State Board of Education is required to implement Section 12.1014, Education Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board may, but it is not required to, implement that section using other appropriations available for that purpose."

Sec. 12.102. Authority Under Charter.

An open-enrollment charter school:

(1) shall provide instruction to students at one or more elementary or secondary grade levels as provided by the charter;

(2) is governed under the governing structure described by the charter;

(3) retains authority to operate under the charter to the extent authorized under Sections 12.1141 and 12.115 and Subchapter E, Chapter 39; and

(4) does not have authority to impose taxes.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 13, effective September 1, 2013.)

Sec. 12.103. General Applicability of Laws, Rules, and Ordinances to Open-Enrollment Charter School.

(a) Except as provided by Subsection (b) or (c), an open-enrollment charter school is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) An open-enrollment charter school is subject to this code and rules adopted under this code only to the extent the applicability to an open-enrollment charter school of a provision of this code or a rule adopted under this code is specifically provided.

(c) Notwithstanding Subsection (a), a campus of an open-enrollment charter school located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 4, effective September 1, 2001.)

Sec. 12.104. Applicability of Title.

(a) An open-enrollment charter school has the powers granted to schools under this title.

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, F, G, and J, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct; and

(N) intensive programs of instruction under Section 28.0213.

(b-1) During the first three years an open-enrollment charter school is in operation, the agency shall assist the school as necessary in complying with requirements under Subsection (b)(2)(A).

(c) An open-enrollment charter school is entitled to the same level of services provided to school districts by regional education service centers. The commissioner shall adopt rules that provide for the representation of open-enrollment charter schools on the boards of directors of regional education service centers.

(d) The commissioner may by rule permit an open-enrollment charter school to voluntarily participate in any state program available to school districts, including a purchasing program, if the school complies with all terms of the program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.04, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 212 (S.B. 1196), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 5, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 374 (S.B. 1488), § 1, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 3, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 5, § 5.001, effective September 1, 2005 am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 16, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 662 (S.B. 1484), § 3, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 14, effective September 1, 2013.)

Sec. 12.105. Status.

An open-enrollment charter school is part of the public school system of this state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001.)

Sec. 12.1051. Applicability of Open Meetings and Public Information Laws.

(a) With respect to the operation of an open-enrollment charter school, the governing body of a charter holder and the governing body of an open-enrollment charter school are considered to be governmental bodies for purposes of Chapters 551 and 552, Government Code.

(b) With respect to the operation of an open-enrollment charter school, any requirement in Chapter 551 or 552, Government Code, or another law that concerns open meetings or the availability of information, that applies to a school district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or students attending an open-enrollment charter school.

(Am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001 (renumbered from Sec. 12.105(b)); am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), art. 3, § 3.01, effective September 1, 2007.)

Sec. 12.1052. Applicability of Laws Relating to Local Government Records.

(a) With respect to the operation of an open-enrollment charter school, an open-enrollment charter school is considered to be a local government for purposes of Subtitle C, Title 6, Local Government Code, and Subchapter J, Chapter 441, Government Code.

(b) Records of an open-enrollment charter school and records of a charter holder that relate to an open-enrollment charter school are government records for all purposes under state law.

(c) Any requirement in Subtitle C, Title 6, Local Government Code, or Subchapter J, Chapter 441, Government Code, that applies to a school district, the board of trustees of a school district, or an officer or employee of a school district applies to an open-enrollment charter school, the governing body of a charter holder, the governing body of an open-enrollment charter school, or an officer or employee of an open-enrollment charter school except that the records of an open-enrollment charter school that ceases to operate shall be transferred in the manner prescribed by Subsection (d).

(d) The records of an open-enrollment charter school that ceases to operate shall be transferred in the manner specified by the commissioner to a custodian designated by the commissioner. The commissioner may designate any appropriate entity to serve as custodian, including the agency, a regional education service center, or a school district. In designating a custodian, the commissioner shall ensure that the transferred records, including student and personnel records, are transferred to a custodian capable of:

(1) maintaining the records;

(2) making the records readily accessible to students, parents, former school employees, and other persons entitled to access; and

(3) complying with applicable state or federal law restricting access to the records.

(e) If the charter holder of an open-enrollment charter school that ceases to operate or an officer or employee of such a school refuses to transfer school records in the manner specified by the commissioner under Subsection (d), the commissioner may ask the attorney general to petition a court for recovery of the records. If the court grants the petition, the court shall award attorney's fees and court costs to the state.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001.)

Sec. 12.1053. Applicability of Laws Relating to Public Purchasing and Contracting.

(a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the commissioner.

(b) An open-enrollment charter school is considered to be:

(1) a governmental entity for purposes of:

(A) Subchapter D, Chapter 2252, Government Code; and

(B) Subchapter B, Chapter 271, Local Government Code;

(2) a political subdivision for purposes of Subchapter A, Chapter 2254, Government Code; and

(3) a local government for purposes of Sections 2256.009—2256.016, Government Code.

(c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 15, effective September 1, 2013.)

Sec. 12.1054. Applicability of Laws Relating to Conflict of Interest.

(a) A member of the governing body of a charter holder, a member of the governing body of an open-enrollment charter school, or an officer of an open-enrollment charter school is considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter:

(1) a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school is considered to have a substantial interest in a business entity if a person related to the member or officer in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code;

(2) notwithstanding any provision of Section 12.1054(1), an employee of an open-enrollment charter school rated acceptable or higher under Section 39.054 for at least two of the preceding three school years may serve as a member of the governing body of the charter holder of the governing body of the school if the employees do not constitute a quorum of the governing body or any committee of the governing body; however, all members shall comply with the requirements of Sections 171.003—171.007, Local Government Code.

(b) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 17, effective June 19, 2009.)

Sec. 12.1055. Applicability of Nepotism Laws.

(a) An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by state law or by a rule adopted under state law, relating to nepotism under Chapter 573, Government Code.

(b) [Repealed by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 47(1), effective September 1, 2013.]

(c) Section 11.1513(f) applies to an open-enrollment charter school as though the governing body of the school were the board of trustees of a school district and to the superintendent or, as applicable, the administrator serving as educational leader and chief executive officer of the school as though that person were the superintendent of a school district.

(d) Notwithstanding any other provision of this section, a person who was not restricted or prohibited under this section as this section existed before September 1, 2013, from being employed by an open-enrollment charter school and who was employed by an open-enrollment charter school before September 1, 2013, is considered to have been in continuous employment as provided by Section

573.062(a), Government Code, and is not prohibited from continuing employment with the school.
(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 18, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), §§ 16, 47(1), effective September 1, 2013.)

Sec. 12.1056. Immunity from Liability.

In matters related to operation of an open-enrollment charter school, an open-enrollment charter school is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers. A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability to the same extent as a school district trustee.
(Am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001 (renumbered from Sec. 12.105(c)).)

Sec. 12.1057. Membership in Teacher Retirement System of Texas.

(a) An employee of an open-enrollment charter school who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

(b) For each employee of the school covered under the system, the school is responsible for making any contribution that otherwise would be the legal responsibility of the school district, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were a school district employee.
(Am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 6, effective September 1, 2001 (renumbered from Sec. 12.105(d)); am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 2, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 17, effective September 1, 2013.)

Sec. 12.1059. Agency Approval Required for Certain Employees.

A person may not be employed by or serve as a teacher, librarian, educational aide, administrator, or school counselor for an open-enrollment charter school unless the person has been approved by the agency following a review of the person's national criminal history record information as provided by Section 22.0832.
(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 2, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 3, effective June 14, 2013.)

Sec. 12.106. State Funding.

(a) **[2 Versions: Effective until September 1, 2017]** A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the percentage specified by Section 42.2516(i) multiplied by the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of the percentage specified by Section 42.2516(i) multiplied by $120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.

(a) **[2 Versions: Effective September 1, 2017]** A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253.

(a-1) In determining funding for an open-enrollment charter school under Subsection (a), adjustments under Sections 42.102, 42.103, 42.104, and 42.105 are based on the average adjustment for the state.

(a-2) In addition to the funding provided by Subsection (a), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under Section 42.302 based on the state average tax effort.

(a-3) **[Expires September 1, 2015]** In determining funding for an open-enrollment charter school under Subsection (a), the commissioner shall apply the regular program adjustment factor provided under Section 42.101 to calculate the regular program allotment to which a charter school is entitled.

(a-4) **[Expires September 1, 2015]** Subsection (a-3) and this subsection expire September 1, 2015.

(b) An open-enrollment charter school is entitled to funds that are available to school districts from the agency or the commissioner in the form of grants or other discretionary funding unless the statute

authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding.

(c) The commissioner may adopt rules to provide and account for state funding of open-enrollment charter schools under this section. A rule adopted under this section may be similar to a provision of this code that is not similar to Section 12.104(b) if the commissioner determines that the rule is related to financing of open-enrollment charter schools and is necessary or prudent to provide or account for state funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 7, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.02, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.03, effective September 1, 2017.)

Sec. 12.1061. Recovery of Certain Funds.

The commissioner may not garnish or otherwise recover funds paid to an open-enrollment charter school under Section 12.106 if:

(1) the basis of the garnishment or recovery is that:

(A) the number of students enrolled in the school during a school year exceeded the student enrollment described by the school's charter during that period; and

(B) the school received funding under Section 12.106 based on the school's actual student enrollment;

(2) the school:

(A) submits to the commissioner a timely request to revise the maximum student enrollment described by the school's charter and the commissioner does not notify the school in writing of an objection to the proposed revision before the 90th day after the date on which the commissioner received the request, provided that the number of students enrolled at the school does not exceed the enrollment described by the school's request; or

(B) exceeds the maximum student enrollment described by the school's charter only because a court mandated that a specific child enroll in that school; and

(3) the school used all funds received under Section 12.106 to provide education services to students.

(Enacted by Acts 2003, 78th Leg., ch. 1048 (H.B. 1202), § 1, effective June 20, 2003.)

Sec. 12.107. Status and Use of Funds.

(a) Funds received under Section 12.106 after September 1, 2001, by a charter holder:

(1) are considered to be public funds for all purposes under state law;

(2) are held in trust by the charter holder for the benefit of the students of the open-enrollment charter school;

(3) may be used only for a purpose for which a school may use local funds under Section 45.105(c); and

(4) pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract.

(b) A charter holder shall deliver to the agency a copy of the depository contract between the charter holder and any bank into which state funds are deposited.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 7, effective September 1, 2001.)

Sec. 12.1071. Effect of Accepting State Funding.

(a) A charter holder who accepts state funds under Section 12.106 after the effective date of a provision of this subchapter agrees to be subject to that provision, regardless of the date on which the charter holder's charter was granted.

(b) A charter holder who accepts state funds under Section 12.106 after September 1, 2001, agrees to accept all liability under this subchapter for any funds accepted under that section before September 1, 2001. This subsection does not create liability for charter holder conduct occurring before September 1, 2001.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 8, effective September 1, 2001.)

Sec. 12.108. Tuition and Fees Restricted.

(a) An open-enrollment charter school may not charge tuition to an eligible student who applies under Section 12.117.

(b) The governing body of an open-enrollment charter school may require a student to pay any fee that the board of trustees of a school district may charge under Section 11.158(a). The governing body may not require a student to pay a fee that the board of trustees of a school district may not charge under Section 11.158(b).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th

Leg., ch. 1504 (H.B. 6), § 9, effective September 1, 2001.)

Sec. 12.109. Transportation.

An open-enrollment charter school shall provide transportation to each student attending the school to the same extent a school district is required by law to provide transportation to district students.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 12.110. Application.

(a) The commissioner shall adopt:

(1) an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application form must provide for including the information required under Section 12.111 to be contained in a charter.

(c) As part of the application procedure, the commissioner may require a petition supporting a charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(d) The commissioner shall approve or deny an application based on:

(1) documented evidence collected through the application review process;

(2) merit; and

(3) other criteria as adopted by the commissioner, which must include:

(A) criteria relating to the capability of the applicant to carry out the responsibilities provided by the charter and the likelihood that the applicant will operate a school of high quality;

(B) criteria relating to improving student performance and encouraging innovative programs; and

(C) a statement from any school district whose enrollment is likely to be affected by the open-enrollment charter school, including information relating to any financial difficulty that a loss in enrollment may have on the district.

(e) The commissioner shall give priority to applications that propose an open-enrollment charter school campus to be located in the attendance zone of a school district campus assigned an unacceptable performance rating under Section 39.054 for the two preceding school years.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 18, effective September 1, 2013.)

Sec. 12.1101. Notification of Charter Application or Establishment of Campus.

The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the commissioner of an application for a charter for an open-enrollment charter school under Section 12.110 or of notice of the establishment of a campus as authorized under Section 12.101(b-4):

(1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as determined by the commissioner; and

(2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 10, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 19, effective September 1, 2013.)

Sec. 12.111. Content.

(a) Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) provide that continuation of the charter is contingent on the status of the charter as determined under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39;

(3) specify the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated, which must include applicable elements of the performance frameworks adopted under Section 12.1181;

(4) specify:

(A) any basis, in addition to a basis specified by this subchapter or Subchapter E, Chapter 39, on which the charter may be revoked, renewal of the charter may be denied, or the charter may be allowed to expire; and

(B) the standards for evaluation of a school operating under the charter for purposes of charter renewal, denial of renewal, expiration, revocation, or other intervention in accordance with Section 12.1141 or 12.115 or Subchapter E, Chapter 39, as applicable;

(5) prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic

ability, or the district the child would otherwise attend in accordance with this code, although the charter may:

(A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and

(B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;

(6) specify the grade levels to be offered;

(7) describe the governing structure of the program, including:

(A) the officer positions designated;

(B) the manner in which officers are selected and removed from office;

(C) the manner in which members of the governing body of the school are selected and removed from office;

(D) the manner in which vacancies on that governing body are filled;

(E) the term for which members of that governing body serve; and

(F) whether the terms are to be staggered;

(8) specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(9) specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

(10) describe the process by which the person providing the program will adopt an annual budget;

(11) describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by commissioner rule, in the Public Education Information Management System (PEIMS);

(12) describe the facilities to be used;

(13) describe the geographical area served by the program;

(14) specify any type of enrollment criteria to be used;

(15) provide information, as determined by the commissioner, relating to any management company that will provide management services to a school operating under the charter; and

(16) specify that the governing body of an open-enrollment charter school accepts and may not delegate ultimate responsibility for the school, including the school's academic performance and financial and operational viability, and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

(b) A charter holder of an open-enrollment charter school shall consider including in the school's charter a requirement that the school develop and administer personal graduation plans under Sections 28.0212 and 28.02121.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 2, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 11, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 4, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1032 (H.B. 1111), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 4(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 20, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 4(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 12.112. Form.

A charter for an open-enrollment charter school shall be in the form of a written contract signed by the commissioner and the chief operating officer of the school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 21, effective September 1, 2013.)

Sec. 12.113. Charter Granted.

(a) Each charter the commissioner grants for an open-enrollment charter school must:

(1) satisfy this subchapter; and

(2) include the information that is required under Section 12.111 consistent with the information provided in the application and any modification the commissioner requires.

(b) [Repealed by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 47(2), effective September 1, 2013.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 11, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), §§ 22, 47(2), effective September 1, 2013.)

Sec. 12.114. Revision.

(a) A revision of a charter of an open-enrollment charter school may be made only with the approval of the commissioner.

(b) Not more than once each year, an open-enrollment charter school may request approval to revise the maximum student enrollment described by the school's charter.

(c) Not later than the 60th day after the date that a charter holder submits to the commissioner a completed request for approval for an expansion amendment, as defined by commissioner rule, including a new school amendment, the commissioner shall provide to the charter holder written notice of approval or disapproval of the amendment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 12, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1048 (H.B. 1202), § 2, effective June 20, 2003; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 23, effective September 1, 2013.)

Sec. 12.1141. Renewal of Charter; Denial of Renewal; Expiration.

(a) The commissioner shall develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the term of the charter. The procedure must include consideration of the performance under Chapter 39 of the charter holder and each campus operating under the charter and must include three distinct processes, which must be expedited renewal, discretionary consideration of renewal or denial of renewal, and expiration. To renew a charter at the end of the term, the charter holder must submit a petition for renewal to the commissioner in the time and manner established by commissioner rule.

(b) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for expedited renewal of the charter, the charter automatically renews unless, not later than the 30th day after the date the charter holder submits the petition, the commissioner provides written notice to the charter holder that expedited renewal of the charter is denied. The commissioner may not deny expedited renewal of a charter if:

(1) the charter holder has been assigned the highest or second highest performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial performance accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better for the three preceding school years; and

(3) no campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years or such a campus has been closed.

(c) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter and the charter does not meet the criteria for expedited renewal under Subsection (b) or for expiration under Subsection (d), the commissioner shall use the discretionary consideration process. The commissioner's decision under the discretionary consideration process must take into consideration the results of annual evaluations under the performance frameworks established under Section 12.1181. The renewal of the charter of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39 shall be considered under the discretionary consideration process regardless of the performance ratings under Subchapter C, Chapter 39, of the open-enrollment charter school or of any campus operating under the charter, except that if the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years, the commissioner shall allow the charter to expire under Subsection (d). In considering the renewal of the charter of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39, such as a dropout recovery school or a school providing education within a residential treatment facility, the commissioner shall use academic criteria established by commissioner rule that are appropriate to measure the specific goals of the school. The criteria established by the commissioner shall recognize growth in student achievement as well as educational attainment. For purposes of this subsection, the commissioner shall designate as a dropout recovery school an open-enrollment charter school or a campus of an open-enrollment charter school:

(1) that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2) that meets the eligibility requirements for and is registered under alternative education ac-

countability procedures adopted by the commissioner.

(d) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter, the commissioner may not renew the charter and shall allow the charter to expire if:

(1) the charter holder has been assigned the lowest performance rating under Subchapter C, Chapter 39, for any three of the five preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years;

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for any three of the five preceding school years; or

(4) any campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years and such a campus has not been closed.

(e) Notwithstanding any other law, a determination by the commissioner under Subsection (d) is final and may not be appealed.

(f) Not later than the 90th day after the date on which a charter holder submits a petition for renewal of a charter for an open-enrollment charter school at the end of the term of the charter, the commissioner shall provide written notice to the charter holder, in accordance with commissioner rule, of the basis on which the charter qualified for expedited renewal, discretionary consideration, or expiration, and of the commissioner's decision regarding whether to renew the charter, deny renewal of the charter, or allow the charter to expire.

(g) Except as provided by Subsection (e), a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the administrative law judge shall uphold a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(2) a decision of the administrative law judge under this subsection is final and may not be appealed.

(h) If a charter holder submits a petition for renewal of a charter for an open-enrollment charter school, notwithstanding the expiration date of the charter, the charter term is extended until the commissioner has provided notice to the charter holder of the renewal, denial of renewal, or expiration of the charter.

(i) The term of a charter renewed under this section is 10 years for each renewal.

(j) The commissioner shall adopt rules to modify criteria for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(k) **[Expires September 1, 2016]** For purposes of determination of renewal under Subsection (b)(1) or (3) or (d)(1) or (4), performance during the 2011-2012 school year may not be considered. For purposes of determination of renewal under Subsection (b)(1) or (3) or (d)(1) or (4), the initial three school years for which performance ratings under Subchapter C, Chapter 39, shall be considered are the 2009-2010, 2010-2011, and 2012-2013 school years. For purposes of determination of renewal under Subsection (b)(2) or (d)(2), the earliest school year for which financial accountability performance ratings under Subchapter D, Chapter 39, may be considered is the 2010-2011 school year. This subsection expires September 1, 2016.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 24, effective September 1, 2013.)

Sec. 12.115. Basis for Charter Revocation or Modification of Governance.

(a) Except as provided by Subsection (c), the commissioner shall revoke the charter of an open-enrollment charter school or reconstitute the governing body of the charter holder if the commissioner determines that the charter holder:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school;

(4) failed to comply with this subchapter or another applicable law or rule;

(5) failed to satisfy the performance framework standards adopted under Section 12.1181; or

(6) is imminently insolvent as determined by the commissioner in accordance with commissioner rule.

(b) The action the commissioner takes under Subsection (a) shall be based on the best interest of the open-enrollment charter school's students, the severity of the violation, any previous violation the

school has committed, and the accreditation status of the school.

(c) The commissioner shall revoke the charter of an open-enrollment charter school if:

(1) the charter holder has been assigned an unacceptable performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance lower than satisfactory for the three preceding school years; or

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for the three preceding school years.

(c-1) **[Expires September 1, 2016]** For purposes of revocation under Subsection (c)(1), performance during the 2011-2012 school year may not be considered. For purposes of revocation under Subsection (c)(1), the initial three school years for which performance ratings under Subchapter C, Chapter 39, shall be considered are the 2009-2010, 2010-2011, and 2012-2013 school years. For purposes of revocation under Subsection (c)(2), the initial three school years for which financial accountability performance ratings under Subchapter D, Chapter 39, shall be considered are the 2010-2011, 2011-2012, and 2012-2013 school years. This subsection expires September 1, 2016.

(d) In reconstituting the governing body of a charter holder under this section, the commissioner shall appoint members to the governing body. In appointing members under this subsection the commissioner:

(1) shall consider:

(A) local input from community members and parents; and

(B) appropriate credentials and expertise for membership, including financial expertise, whether the person lives in the geographic area the charter holder serves, and whether the person is an educator; and

(2) may reappoint current members of the governing body.

(e) If a governing body of a charter holder subject to reconstitution under this section governs enterprises other than the open-enrollment charter school, the commissioner may require the charter holder to create a new, single-purpose organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, to govern the open-enrollment charter school and may require the charter holder to surrender the charter to the commissioner for transfer to the organization created under this subsection. The commissioner shall appoint the members of the governing body of an organization created under this subsection.

(f) This section does not limit the authority of the attorney general to take any action authorized by law.

(g) The commissioner shall adopt rules necessary to administer this section.

(h) **[Expires October 1, 2014]** The comsmissioner shall adopt initial rules under Subsection (g) not later than September 1, 2014. This subsection expires October 1, 2014.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 12, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 25, effective September 1, 2013.)

Sec. 12.116. Procedure for Revocation or Modification of Governance.

(a) The commissioner shall adopt an informal procedure to be used for revoking the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115.

(b) Chapter 2001, Government Code, does not apply to a procedure that is related to a revocation or modification of governance under this subchapter.

(c) A decision by the commissioner to revoke a charter is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the administrative law judge shall uphold a decision by the commissioner to revoke a charter unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(2) a decision of the administrative law judge under this subsection is final and may not be appealed.

(d) If the commissioner revokes the charter of an open-enrollment charter school, the commissioner may:

(1) manage the school until alternative arrangements are made for the school's students; and

(2) assign operation of one or more campuses formerly operated by the charter holder who held the revoked charter to a different charter holder who consents to the assignment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 12, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 26, effective September 1, 2013.)

Sec. 12.1161. Effect of Revocation, Denial of Renewal, or Surrender of Charter.

(a) If the commissioner revokes or denies the renewal of a charter of an open-enrollment charter school or an open-enrollment charter school surrenders its charter, the school may not:

(1) continue to operate under this subchapter; or

(2) receive state funds under this subchapter.

(b) [Repealed by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 47(3), effective September 1, 2013.]

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 13, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), §§ 27, 47(3), effective September 1, 2013.)

Sec. 12.1162. Additional Sanctions.

(a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.102(a), to the extent the commissioner determines necessary, if an open-enrollment charter school, as determined by a report issued under Section 39.058(b):

(1) commits a material violation of the school's charter;

(2) fails to satisfy generally accepted accounting standards of fiscal management; or

(3) fails to comply with this subchapter or another applicable rule or law.

(b) The commissioner may temporarily withhold funding, suspend the authority of an open-enrollment charter school to operate, or take any other reasonable action the commissioner determines necessary to protect the health, safety, or welfare of students enrolled at the school based on evidence that conditions at the school present a danger to the health, safety, or welfare of the students.

(c) After the commissioner acts under Subsection (b), the open-enrollment charter school may not receive funding and may not resume operating until a determination is made that:

(1) despite initial evidence, the conditions at the school do not present a danger of material harm to the health, safety, or welfare of students; or

(2) the conditions at the school that presented a danger of material harm to the health, safety, or welfare of students have been corrected.

(d) Not later than the third business day after the date the commissioner acts under Subsection (b), the commissioner shall provide the charter holder an opportunity for a hearing.

(e) Immediately after a hearing under Subsection (d), the commissioner must cease the action under Subsection (b) or initiate action under Section 12.116.

(f) The commissioner shall adopt rules implementing this section. Chapter 2001, Government Code, does not apply to a hearing under this section.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 13, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 19, effective June 19, 2009.)

Sec. 12.1163. Audit by Commissioner.

(a) To the extent consistent with this section, the commissioner may audit the records of:

(1) an open-enrollment charter school;

(2) a charter holder; and

(3) a management company.

(b) An audit under Subsection (a) must be limited to matters directly related to the management or operation of an open-enrollment charter school, including any financial and administrative records.

(c) Unless the commissioner has specific cause to conduct an additional audit, the commissioner may not conduct more than one on-site audit during any fiscal year, including any financial and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 13, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 511 (H.B. 1146), § 1, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 28, effective September 1, 2013.)

Sec. 12.1164. Notice to Teacher Retirement System of Texas.

(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation, denial of renewal, expiration, or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

(b) The commissioner must notify the Teacher Retirement System of Texas in writing that an open-enrollment charter school is no longer receiving state funding not later than the 10th business day after the date on which the funding ceases.

(c) The commissioner must notify the Teacher Retirement System of Texas in writing that an open-enrollment charter school has resumed receiving state funds not later than the 10th business day after the date on which funding resumes.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 3, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 29, effective September 1, 2013.)

Sec. 12.117. Admission.

(a) For admission to an open-enrollment charter school, the governing body of the school shall:

(1) require the applicant to complete and submit an application not later than a reasonable deadline the school establishes; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the school:

(A) fill the available positions by lottery; or

(B) subject to Subsection (b), fill the available positions in the order in which applications received before the application deadline were received.

(b) An open-enrollment charter school may fill applications for admission under Subsection (a)(2)(B) only if the school published a notice of the opportunity to apply for admission to the school. A notice published under this subsection must:

(1) state the application deadline; and

(2) be published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline.

(c) An open-enrollment charter school authorized by a charter granted under this subchapter to a municipality:

(1) is considered a work-site open-enrollment charter school for purposes of federal regulations regarding admissions policies that apply to open-enrollment charter schools receiving federal funding; and

(2) notwithstanding Subsection (a), may admit children of employees of the municipality to the school before conducting a lottery to fill remaining available positions, provided that the number of children admitted under this subdivision constitutes only a small percentage, as may be further specified by federal regulation, of the school's total enrollment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 14, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 317 (H.B. 2366), § 1, effective June 17, 2011.)

Sec. 12.1171. Admission to Open-Enrollment Charter Schools Specializing in Performing Arts.

Notwithstanding Section 12.117, the governing body of an open-enrollment charter school that specializes in one or more performing arts may require an applicant to audition for admission to the school. (Enacted by Acts 2005, 79th Leg., ch. 1032 (H.B. 1111), § 2, effective September 1, 2005.)

Sec. 12.118. Evaluation of Open-Enrollment Charter Schools.

(a) The commissioner shall designate an impartial organization with experience in evaluating school choice programs to conduct an annual evaluation of open-enrollment charter schools.

(b) An evaluation under this section must include consideration of the following items before implementing the charter and after implementing the charter:

(1) students' scores on assessment instruments administered under Subchapter B, Chapter 39;

(2) student attendance;

(3) students' grades;

(4) incidents involving student discipline;

(5) socioeconomic data on students' families;

(6) parents' satisfaction with their children's schools; and

(7) students' satisfaction with their schools.

(c) The evaluation of open-enrollment charter schools must also include an evaluation of:

(1) the costs of instruction, administration, and transportation incurred by open-enrollment charter schools;

(2) the effect of open-enrollment charter schools on school districts and on teachers, students, and parents in those districts; and

(3) other issues, as determined by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 15, effective September 1, 2001.)

Sec. 12.1181. Performance Frameworks; Annual Evaluations.

(a) The commissioner shall develop and by rule adopt performance frameworks that establish standards by which to measure the performance of an open-enrollment charter school. The commissioner shall develop and by rule adopt separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39. The performance frameworks shall be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance. In developing the performance frameworks, the commissioner shall solicit advice from charter holders, the members of the governing bodies of open-enrollment charter schools, and other interested persons.

(b) The performance frameworks may include a variety of standards. In evaluating an open-enrollment charter school, the commissioner shall measure school performance against an established set of quality standards developed and adopted by the commissioner.

(c) Each year, the commissioner shall evaluate the performance of each open-enrollment charter school based on the applicable performance frame-

works adopted under Subsection (a). The performance of a school on a performance framework may not be considered for purposes of renewal of a charter under Section 12.1141(d) or revocation of a charter under Section 12.115(c).
(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 30, effective September 1, 2013.)

Sec. 12.119. Bylaws; Annual Report.

(a) A charter holder shall file with the commissioner a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner.

(b) Each year within the period and in a form prescribed by the commissioner, each open-enrollment charter school shall file with the commissioner the following information:

(1) the name, address, and telephone number of each officer and member of the governing body of the open-enrollment charter school; and

(2) the amount of annual compensation the open-enrollment charter school pays to each officer and member of the governing body.

(c) On request, the commissioner shall provide the information required by this section and Section 12.111(a)(7) to a member of the public. The commissioner may charge a reasonable fee to cover the commissioner's cost in providing the information.
(Enacted by Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 3, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 16, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.002, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 31, effective September 1, 2013.)

Sec. 12.120. Restrictions on Serving As Member of Governing Body of Charter Holder or Open-Enrollment Charter School or As Officer or Employee.

(a) A person may not serve as a member of the governing body of a charter holder, as a member of the governing body of an open-enrollment charter school, or as an officer or employee of an open-enrollment charter school if the person:

(1) has been convicted of a felony or a misdemeanor involving moral turpitude;

(2) has been convicted of an offense listed in Section 37.007(a);

(3) has been convicted of an offense listed in Article 62.001(5), Code of Criminal Procedure; or

(4) has a substantial interest in a management company.

(a-1) Notwithstanding Subsection (a), subject to Section 12.1059, an open-enrollment charter school may employ a person:

(1) as a teacher or educational aide if:

(A) a school district could employ the person as a teacher or educational aide; or

(B) a school district could employ the person as a teacher or educational aide if the person held the appropriate certificate issued under Subchapter B, Chapter 21, and the person has never held a certificate issued under Subchapter B, Chapter 21; or

(2) in a position other than a position described by Subdivision (1) if a school district could employ the person in that position.

(b) For purposes of Subsection (a)(4), a person has a substantial interest in a management company if the person:

(1) has a controlling interest in the company;

(2) owns more than 10 percent of the voting interest in the company;

(3) owns more than $25,000 of the fair market value of the company;

(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the company;

(5) is a member of the board of directors or other governing body of the company;

(6) serves as an elected officer of the company; or

(7) is an employee of the company.
(Enacted by Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 3, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 17, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), art. 2, § 2.04, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 639 (H.B. 647), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 32, effective September 1, 2013.)

Sec. 12.1202. Requirement for Majority of Members of Governing Body.

A majority of the members of the governing body of an open-enrollment charter school or the governing body of a charter holder must be qualified voters.
(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 33, effective September 1, 2013.)

Sec. 12.121. Responsibility for Open-Enrollment Charter School.

The governing body of an open-enrollment charter school is responsible for the management, operation, and accountability of the school, regardless of

whether the governing body delegates the governing body's powers and duties to another person.
(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.1211. Names of Members of Governing Body Listed on Website.

An open-enrollment charter school shall list the names of the members of the governing body on the home page of the school's Internet website.
(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 34, effective September 1, 2013.)

Sec. 12.122. Liability of Members of Governing Body of Open-Enrollment Charter School.

(a) Notwithstanding the applicable provisions of the Business Organizations Code or other law, on request of the commissioner, the attorney general may bring suit against a member of the governing body of an open-enrollment charter school for breach of a fiduciary duty by the member, including misapplication of public funds.

(b) The attorney general may bring suit under Subsection (a) for:

(1) damages;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies.
(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 35, effective September 1, 2013.)

Sec. 12.123. Training for Members of Governing Body of School and Officers.

(a) The commissioner shall adopt rules prescribing training for:

(1) members of governing bodies of open-enrollment charter schools; and

(2) officers of open-enrollment charter schools.

(b) The rules adopted under Subsection (a) may:

(1) specify the minimum amount and frequency of the training;

(2) require the training to be provided by:

(A) the agency and regional education service centers;

(B) entities other than the agency and service centers, subject to approval by the commissioner; or

(C) both the agency, service centers, and other entities; and

(3) require training to be provided concerning:

(A) basic school law, including school finance;

(B) health and safety issues;

(C) accountability requirements related to the use of public funds; and

(D) other requirements relating to accountability to the public, such as open meetings requirements under Chapter 551, Government Code, and public information requirements under Chapter 552, Government Code.
(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.1231. [Expires January 1, 2014] Training for Agency Employees.

Not later than October 1, 2013, each agency employee assigned responsibility related to granting charters for open-enrollment charter schools or providing oversight or monitoring of charter holders or open-enrollment charter schools must participate in training on charter school authorization, oversight, and monitoring provided by a nationally recognized organization of charter school authorizers identified by the commissioner. This section expires January 1, 2014.
(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 36, effective September 1, 2013.)

Sec. 12.124. Loans from Management Company Prohibited.

(a) The charter holder or the governing body of an open-enrollment charter school may not accept a loan from a management company that has a contract to provide management services to:

(1) that charter school; or

(2) another charter school that operates under a charter granted to the charter holder.

(b) A charter holder or the governing body of an open-enrollment charter school that accepts a loan from a management company may not enter into a contract with that management company to provide management services to the school.
(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.125. Contract for Management Services.

Any contract, including a contract renewal, between an open-enrollment charter school and a management company proposing to provide management services to the school must require the management company to maintain all records related to the management services separately from any other records of the management company.
(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.126. Certain Management Services Contracts Prohibited.

The commissioner may prohibit, deny renewal of, suspend, or revoke a contract between an open-enrollment charter school and a management company providing management services to the school if the commissioner determines that the management company has:

(1) failed to provide educational or related services in compliance with the company's contractual or other legal obligation to any open-enrollment charter school in this state or to any other similar school in another state;

(2) failed to protect the health, safety, or welfare of the students enrolled at an open-enrollment charter school served by the company;

(3) violated this subchapter or a rule adopted under this subchapter; or

(4) otherwise failed to comply with any contractual or other legal obligation to provide services to the school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.127. Liability of Management Company.

(a) A management company that provides management services to an open-enrollment charter school is liable for damages incurred by the state as a result of the failure of the company to comply with its contractual or other legal obligation to provide services to the school.

(b) On request of the commissioner, the attorney general may bring suit on behalf of the state against a management company liable under Subsection (a) for:

(1) damages, including any state funding received by the company and any consequential damages suffered by the state;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies and does not affect:

(1) the liability of a management company to the charter holder; or

(2) the liability of a charter holder, a member of the governing body of a charter holder, or a member of the governing body of an open-enrollment charter school to the state.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.128. Property Purchased or Leased with State Funds.

(a) Property purchased or leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

(1) is considered to be public property for all purposes under state law;

(2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and

(3) may be used only for a purpose for which a school district may use school district property.

(b) If at least 50 percent of the funds used by a charter holder to purchase real property are funds received under Section 12.106 before September 1, 2001, the property is considered to be public property to the extent it was purchased with those funds.

(c) The commissioner shall:

(1) take possession and assume control of the property described by Subsection (a) of an open-enrollment charter school that ceases to operate; and

(2) supervise the disposition of the property in accordance with law.

(d) The commissioner may adopt rules necessary to administer this section.

(e) This section does not affect a security interest in or lien on property established by a creditor in compliance with law if the security interest or lien arose in connection with the sale or lease of the property to the charter holder.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 37, effective September 1, 2013.)

Sec. 12.129. Minimum Qualifications for Principals and Teachers.

A person employed as a principal or a teacher by an open-enrollment charter school must hold a baccalaureate degree.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 38, effective September 1, 2013.)

Sec. 12.130. Notice of Teacher Qualifications.

Each open-enrollment charter school shall provide to the parent or guardian of each student enrolled in the school written notice of the qualifications of each teacher employed by the school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 18, effective September 1, 2001.)

Sec. 12.131. Removal of Students to Disciplinary Alternative Education Program; Expulsion of Students.

(a) The governing body of an open-enrollment charter school shall adopt a code of conduct for its

district or for each campus. In addition to establishing standards for behavior, the code of conduct shall outline generally the types of prohibited behaviors and their possible consequences. The code of conduct shall also outline the school's due process procedures with respect to expulsion. Notwithstanding any other provision of law, a final decision of the governing body of an open-enrollment charter school with respect to actions taken under the code of conduct may not be appealed.

(b) An open-enrollment charter school may not elect to expel a student for a reason that is not authorized by Section 37.007 or specified in the school's code of conduct as conduct that may result in expulsion.

(c) Notwithstanding any other provision, Section 37.002 and its provisions, wherever referenced, are not applicable to an open-enrollment charter school unless the governing body of the school so determines.

(Enacted by Acts 2003, 78th Leg., ch. 193 (H.B. 1564), § 2, effective June 2, 2003; enacted by Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 1, effective June 20, 2003.)

Sec. 12.132. Use of Municipal Funds for Charter School Land or Facilities.

A municipality to which a charter is granted under this subchapter may borrow funds, issue obligations, or otherwise spend its funds to acquire land or acquire, construct, expand, or renovate school buildings or facilities and related improvements for its open-enrollment charter school within the city limits of the municipality in the same manner the municipality is authorized to borrow funds, issue obligations, or otherwise spend its funds in connection with any other public works project.

(Enacted by Acts 2003, 78th Leg., ch. 193 (H.B. 1564), § 2, effective June 2, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(11), effective September 1, 2005 (renumbered from Sec. 12.131).)

Sec. 12.133. Wage Increase for Certain Professional Staff.

(a) This section applies to a charter holder that on January 1, 2006, operated an open-enrollment charter school.

(b) Each school year, using state funds received by the charter holder for that purpose under Subsection (d), a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for classroom teachers, full-time librarians, full-time school counselors, and full-time school nurses who are employed by the charter holder and who would be entitled to a minimum salary under Section 21.402 if employed by a school district, in an amount at least equal to $2,500.

(b-1) Using state funds received by the charter holder for that purpose under Subsection (d-1), a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in average compensation increases as follows:

(1) for full-time employees other than employees who would be entitled to a minimum salary under Section 21.402 if employed by a school district, an average increase at least equal to $500; and

(2) for part-time employees, an average increase at least equal to $250.

(c) Each school year, using state funds received by the charter holder for that purpose under Subsection (e), a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for classroom teachers, full-time librarians, full-time school counselors, and full-time school nurses who are employed by the charter holder and who would be entitled to a minimum salary under Section 21.402 if employed by a school district, in an amount at least equal to $2,000.

(d) Each school year, in addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the product of $2,500 multiplied by the number of classroom teachers, full-time librarians, full-time school counselors, and full-time school nurses employed by the charter holder at an open-enrollment charter school.

(d-1) In addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2005-

2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the sum of:

(1) the product of $500 multiplied by the number of full-time employees other than employees who would be entitled to a minimum salary under Section 21.402 if employed by a school district; and

(2) the product of $250 multiplied by the number of part-time employees.

(e) Each school year, in addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2005-2006 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the product of $2,000 multiplied by the number of classroom teachers, full-time librarians, full-time school counselors, and full-time school nurses employed by the charter holder at an open-enrollment charter school.

(f) A payment under this section is in addition to wages the charter holder would otherwise pay the employee during the school year.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.02, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 4, effective June 14, 2013.)

Sec. 12.1331. Wage Increase for Certain Professional Staff [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 21(1), effective September 28, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 6, effective September 1, 2009.)

Sec. 12.135. Designation As Charter District for Purposes of Bond Guarantee.

(a) On the application of the charter holder, the commissioner may grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the commissioner. The financial standards must require an open-enrollment charter school to have an investment grade credit rating as specified by Section 45.0541.

(b) A charter district may apply for bonds issued under Chapter 53 for the open-enrollment charter school, including refunding and refinanced bonds, to be guaranteed by the permanent school fund as provided by Chapter 45.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.01, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 280 (H.B. 885), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.21 provides: "This article applies only to a bond issued or refunded on or after the effective date of this Act [September 1, 2011] by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code, as added by this article. A bond issued or refunded by an open-enrollment charter school before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 280 (H.B. 885), § 4 provides: "This Act applies only to a bond issued, refunded, or refinanced on or after the effective date of this Act [September 1, 2013] by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code. A bond issued, refunded, or refinanced before the effective date of this Act by an open-enrollment charter school designated as a charter district is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 12.136. Posting of Chief Executive Officer Salary.

An open-enrollment charter school shall post on the school's Internet website the salary of the school's superintendent or, as applicable, of the administrator serving as educational leader and chief executive officer.

(Enacted by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 39, effective September 1, 2013.)

SUBCHAPTER E
COLLEGE OR UNIVERSITY OR JUNIOR COLLEGE CHARTER SCHOOL

Sec. 12.151. Definitions.

In this subchapter, "public junior college" and "public senior college or university" have the meanings assigned by Section 61.003.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 19, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 631 (H.B. 1423), § 2, effective June 19, 2009.)

Sec. 12.152. Authorization.

In accordance with this subchapter and Subchapter D, the commissioner may grant a charter on the application of:

(1) a public senior college or university for an open-enrollment charter school to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located; or

(2) a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 19, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 631 (H.B. 1423), § 2, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 40, effective September 1, 2013.)

Sec. 12.153. Rules.

The commissioner may adopt rules to implement this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 19, effective September 1, 2001.)

Sec. 12.154. Content.

(a) Notwithstanding Section 12.110(d), the commissioner may grant a charter under this subchapter to a public senior college or university only if the following criteria are satisfied in the public senior college's or university's application, as determined by the commissioner:

(1) the college or university charter school's educational program must include innovative teaching methods;

(2) the college or university charter school's educational program must be implemented under the direct supervision of a member of the teaching or research faculty of the public senior college or university;

(3) the faculty member supervising the college or university charter school's educational program must have substantial experience and expertise in education research, teacher education, classroom instruction, or educational administration;

(4) the college or university charter school's educational program must be designed to meet specific goals described in the charter, including improving student performance, and each aspect of the program must be directed toward the attainment of the goals;

(5) the attainment of the college or university charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(6) the financial operations of the college or university charter school must be supervised by the business office of the public senior college or university.

(b) Notwithstanding Section 12.110(d), the commissioner may grant a charter under this subchapter to a public junior college only if the following criteria are satisfied in the public junior college's application, as determined by the commissioner:

(1) the junior college charter school's educational program must be implemented under the direct supervision of a member of the faculty of the public junior college;

(2) the faculty member supervising the junior college charter school's educational program must have substantial experience and expertise in teacher education, classroom instruction, or educational administration;

(3) the junior college charter school's educational program must be designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program must be directed toward the attainment of the goals;

(4) the attainment of the junior college charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(5) the financial operations of the junior college charter school must be supervised by the business office of the junior college.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 19, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 631 (H.B. 1423), § 2, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 40, effective September 1, 2013.)

Sec. 12.155. School Name.

The name of a college or university charter school or junior college charter school must include the name of the public senior college or university or public junior college, as applicable, operating the school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 19, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 631 (H.B. 1423), § 2, effective June 19, 2009.)

Sec. 12.156. Applicability of Certain Provisions.

(a) Except as otherwise provided by this subchapter, Subchapter D applies to a college or university charter school or junior college charter school as though the college or university charter school or junior college charter school, as applicable, were granted a charter under that subchapter.

(b) A charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 19, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 631 (H.B. 1423), § 3, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 41, effective September 1, 2013.)

CHAPTER 13
CREATION, CONSOLIDATION, AND ABOLITION OF A DISTRICT

Subchapter A. General Provisions

Section

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 13.001. Definition.

In this chapter, "membership" means the number of students enrolled in a school district as of a given date.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.002. Permitted Frequency of Proposed Actions.

(a) If at an election on a proposition under this chapter the majority of the votes are cast against the proposition, another election for the same purpose may not be held earlier than the corresponding uniform election date three years after the date of the first election. If a majority of the votes are cast in favor of the proposition, an election to reverse the effects of the first election may not be held earlier than the corresponding uniform election date three years after the date of the first election.

(b) If, without an election, an action under this chapter occurs on the order or ordinance of an authority acting in response to a petition and the petitioners' request is rejected, that authority may not consider a subsequent petition on the same request earlier than three years after the date on which the request is rejected. If the request is granted and the order is issued or the ordinance is adopted, a petition to reverse the effects of the order or ordinance may not be considered by the authority earlier than three years after the date of issuance or adoption.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.003. Petition and Election.

(a) Except as otherwise provided by this chapter, this section governs:

(1) the validity of a petition submitted to request an election under this chapter; and

(2) the conduct of the resulting election.

(b) To be valid, a petition must:

(1) be submitted to the county judge serving the county in which the appropriate school district is located;

(2) be signed by at least 10 percent of the registered voters of the appropriate district; and

(3) state the purpose for which it is being submitted.

(c) Immediately following receipt of a valid petition, the county judge shall order the election to be held on an authorized election date, as prescribed by Chapter 41, Election Code, occurring not later than the 60th day after the date of receipt. If an authorized date within that period does not allow sufficient time to comply with other legal requirements or if there is no authorized date within that period, the election shall be ordered for the next authorized date.

(d) The election order must include the date of the election, the hours during which the polls will be open, the location of the polling places, and the proposition to be voted on.

(e) Not earlier than the 30th day or later than the 10th day before the date of the election, the county judge shall give notice of the election by having a copy of the election order published at least once in a newspaper published at least once each week in the appropriate school district. If such a newspaper is not published in the district, the notice shall be published in at least one newspaper of general circulation in the county in which the district is located. The county judge shall give additional notice of the election by having a copy of the election order posted in a public place in each election precinct not later than the 21st day before the date of the election.

(f) The election precincts and polling places usually used in the elections of the appropriate school district shall be used in an election held under this chapter, except that if another election is occurring on the same date for all or part of the same geographic area, precincts and polling places shall be selected to allow each voter to cast ballots at the same polling place for each of the elections. To the extent practical, the election shall be conducted in accordance with the Election Code.

(g) The expenses of the election shall be paid by the appropriate school district or districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.004. Allocation of Indebtedness and Personal Property.

(a) If under this chapter a school district assumes a portion of the indebtedness of another district, the commissioners court by order shall equitably allocate the indebtedness among the districts involved. If territory from one district is annexed to another or if a district is abolished, the commissioners court shall also equitably allocate among the receiving districts a portion of the personal property of the annexed district or all the personal property of an abolished district. If districts located in more than one county are involved, the commissioners court of each county in which an involved school district is located must agree on the allocation of indebtedness and personal property.

(b) In allocating the indebtedness and personal property, the commissioners court shall consider the value of the properties involved and the taxable value of the districts involved.

(c) The order of the commissioners court is binding on the school districts and territory affected by the order.

(d) A school district required to assume the indebtedness of another district under this chapter is not required to conduct an election on assumption of the indebtedness. Without an election, the school district assuming the indebtedness may levy and collect taxes necessary to pay principal and interest on the assumed debt so long as the debt is outstanding.

(e) Without an election, a school district may issue refunding bonds for bonds of another district assumed under this chapter.

(f) If an entire district is annexed to or consolidated with another district, if a district is converted from a common to an independent school district, or if a school district is separated from a municipality, the governing board of the district as changed may, without an election, sell and deliver any unissued bonds voted in the district before the change and may levy and collect taxes in the district as changed for the payment of principal and interest on bonds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.005. Effective Date of Transfer.

(a) Except as provided by this section or by a local consolidation agreement under Section 13.158, the annexation of all or part of the territory of one district to another is effective on the first July 1 that is more than 30 days after the date of the order or ordinance accomplishing the annexation or of the declaration of the results of an election at which the transfer is approved.

(b) On the effective date of the transfer:

(1) students residing in the territory become residents of the receiving district;

(2) title to property allocated to the receiving district vests in the district;

(3) the receiving district assumes any debt allocated to it; and

(4) the receiving district assumes jurisdiction of the annexed territory for all other purposes.

(c) If the annexation is appealed to the commissioner and is approved, the transfer is effective on a date set by the commissioner that is not earlier than the 30th day after the date of the commissioner's decision in the appeal. If the decision of the commissioner is appealed to a district court in Travis County, the transfer, if approved, is effective on a date set by the court.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 7, effective September 1, 2003.)

Sec. 13.006. Taxing Authority Transfer.

(a) If all or part of the territory of a school district is annexed to another district, the receiving district may levy taxes at the rate established in accordance with law for the district as a whole and is not required to conduct an election for the purpose of taxing the territory received.

(b) Conversion of a common school district or rural high school district to an independent school district or separation from municipal control does not affect the taxes levied for school purposes. The new district may levy and collect taxes at the same rate at which the taxes were previously levied and is not required to conduct an election for that purpose.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.007. Boundary Changes Resulting in Appraisal District Changes [Repealed].

Repealed by Acts 2007, 80th Leg., ch. 648 (H.B. 1010), § 5, effective January 1, 2008.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 648 (H.B. 1010), § 5(1), effective January 1, 2008.)

Sec. 13.008. District Trustee Approval of Boundary Changes Required.

Any change in the boundaries of a school district is not effective unless approved by a majority of the board of trustees of the district if the board's approval is required under this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.009. Appeals.

(a) A decision of a commissioners court under this chapter may be appealed for a de novo review.

(b) If this chapter requires the agreement of or action by two or more commissioners courts, and the commissioners courts fail to agree or take action within a reasonable time set by rule of the State Board of Education, a person aggrieved by the failure may appeal to the commissioner for resolution of the issue.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.010. Boundary Descriptions and Maps to Be Filed with Agency.

(a) Each school district shall file with the agency:

(1) a complete and legally sufficient description of the boundaries of the district;

(2) a map of the district that:

(A) is drawn to the county general highway maps produced by the Texas Department of Transportation or a similar map of sufficient detail to display the names of visible features that the boundaries follow or to which the boundaries are in close proximity; and

(B) is an accurate and legible representation of the boundaries in relationship to other features on the map; and

(3) a list of voting precincts in the district, separately listing those precincts wholly in the district and those precincts only partly in the district.

(b) A school district shall amend the information and maps on file under this section if the boundaries of the district change or if any other change makes the information on file incomplete or inaccurate.

(c) The agency shall make maps and information maintained under this section available to the legislature and legislative agencies without cost.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER B
DETACHMENT; ANNEXATION

Sec. 13.051. Detachment and Annexation of Territory.

(a) In accordance with this section, territory may be detached from a school district and annexed to another school district that is contiguous to the detached territory. A petition requesting the detachment and annexation must be presented to the board of trustees of the district from which the territory is to be detached and to the board of trustees of the district to which the territory is to be annexed. Each board of trustees to which a petition is required to be presented must conduct a hearing and adopt a resolution as provided by this section for the annexation to be effective.

(b) The petition requesting detachment and annexation must:

(1) be signed by a majority of:

(A) the registered voters residing in the territory to be detached and annexed, if the territory has residents; or

(B) the surface owners of taxable property in the territory to be detached and annexed, if the territory does not have residents; and

(2) give the metes and bounds of the territory to be detached and annexed.

(c) Territory that does not have residents may be detached from a school district and annexed to another school district if:

(1) the total taxable value of the property in the territory according to the most recent certified appraisal roll for each school district is not greater than:

(A) five percent of the district's taxable value of all property in that district as determined under Subchapter M, Chapter 403, Government Code; and

(B) $5,000 property value per student in average daily attendance as determined under Section 42.005; and

(2) the school district from which the property will be detached does not own any real property located in the territory.

(d) The proposed annexation must be approved by the board of trustees of each affected district, subject to the appeal provisions of Subsection (j).

(e) Unless the petition is signed by a majority of the trustees of the district from which the territory is to be detached, territory that has residents may not be detached from a school district under this section if detachment would reduce that district's tax base by a ratio at least twice as large as the ratio by which it would reduce its membership. The first ratio is determined by dividing the assessed value of taxable property in the affected territory by the assessed value of all taxable property in the district, both figures according to the preceding year's tax rolls. The second ratio is determined by dividing the number of students residing in the affected territory by the number of students residing in the district as a whole, using membership on the last day of the preceding school year and the students' places of residence as of that date.

(f) A school district may not be reduced to an area of less than nine square miles.

(g) Immediately following receipt of the petition as required by this section, each affected board of trustees shall give notice of the contemplated change by publishing and posting a notice in the manner required for an election order under Section 13.003. The notice must specify the place and date at which a hearing on the matter shall be held. Unless the districts hold a joint hearing, the districts must hold hearings on separate dates. At each hearing, affected persons are entitled to an opportunity to be heard.

(h) At the hearing, each board of trustees shall consider the educational interests of the current students residing or future students expected to reside in the affected territory and in the affected districts and the social, economic, and educational effects of the proposed boundary change. After the conclusion of the hearing, each board of trustees shall make findings as to the educational interests of the current students residing or future students expected to reside in the affected territory and in the affected districts and as to the social, economic, and educational effects of the proposed boundary change and shall, on the basis of those findings, adopt a resolution approving or disapproving the petition. The findings and resolution shall be recorded in the minutes of each affected board of trustees and shall be reported to the commissioners court of the county to which the receiving district is assigned for administrative purposes by the agency and to the commissioners court of the county to which the district from which territory is to be detached is assigned for administrative purposes.

(i) If both boards of trustees of the affected districts approve the petition, the commissioners court or commissioners courts to whom the matter is required to be reported shall enter an order redefining the boundaries of the districts affected by the transfer. Title to all real property of the district from which territory is detached within the territory annexed vests in the receiving district, and the receiving district assumes and is liable for any portion of the indebtedness of the district from which the territory is to be detached that is allocated to the receiving district under Section 13.004.

(j) If both boards of trustees of the affected districts disapprove the petition, the decisions may not be appealed. If the board of trustees of only one affected district disapproves the petition, an aggrieved party to the proceedings in either district may appeal the board's decision to the commissioner under Section 7.057. An appeal under this subsection is de novo. In deciding the appeal, the commissioner shall consider the educational interests of the students in the affected territory and the affected districts and the social, economic, and educational effects of the proposed boundary change.

(k) Any additional tax resulting from a change of use, as provided for by Chapter 23, Tax Code, and the interest and penalty on the additional tax, that is imposed for any year on land in the annexed territory shall be paid to the school district that imposed the tax.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.052. Dormant School Districts.

(a) If the commissioner determines that a school district has failed to operate a school for a full school year, the commissioner shall report to each appropriate commissioners court that the district is dormant.

(b) The commissioners court of a county shall by order annex each dormant school district within the county with an adjoining district or districts. If the dormant district is a county-line district, the commissioners court of each county in which the district is located shall annex the territory of the dormant district that is within that county. The commissioners court may annex territory to a school district only if the board of trustees of that district approves the annexation.

(c) The governing board of the district to which a dormant school district is annexed is the governing board for the new district.

(d) The order of the commissioners court shall define by legal boundary description the territory of the new district as enlarged and shall be recorded in the minutes of the commissioners court.

(e) Title to the real property of the dormant district vests in the district to which the property is annexed. Each district to which territory is annexed assumes and is liable for any portion of the dormant district's indebtedness that is allocated to the receiving district under Section 13.004.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.)

Sec. 13.053. Territory Not in School District.

(a) All real property must be included within the limits of a school district. At any time it is determined that there is territory located in a county but not within the described limits of a school district, the commissioners court shall annex the territory to one or more adjoining districts.

(b) The annexation order shall define by legal boundary description the territory of the new district and shall be recorded in the minutes of the commissioners court.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.054. Academically Unacceptable School Districts.

(a) The commissioner by order may annex to one or more adjoining districts a school district that has been rated as academically unacceptable for a period of two years.

(b) The governing board of a district to which territory of an academically unacceptable district is annexed is the governing board for the new district.

(c) The order of the commissioner shall define by legal boundary description the territory of the new district as enlarged.

(d) Title to the real property of the academically unacceptable district vests in the district to which the property is annexed. Each district to which territory is annexed assumes and is liable for any portion of the academically unacceptable district's indebtedness that is allocated to the receiving district under Section 13.004.

(e) Before the commissioner orders an annexation under this section, the commissioner shall investigate the educational and financial impact of the annexation on the receiving district. The commissioner may order the annexation only if the commissioner finds that the annexation will not substantially impair the ability of the receiving district to educate the students located in the district before the annexation and to meet its financial obligations incurred before the annexation.

(f) For five years beginning with the school year in which the annexation occurs, the commissioner shall annually adjust the local fund assignment of a district to which territory is annexed under this section by multiplying the enlarged district's local fund assignment computed under Section 42.252 by a fraction, the numerator of which is the number of students residing in the district preceding the date of the annexation and the denominator of which is the number of students residing in the district as enlarged on the date of the annexation.

(g) A district to which territory is annexed under this section is entitled to additional state aid equal to the amount by which the annual debt service required to meet the indebtedness incurred by the district due to the annexation exceeds the additional amount of state aid that results from the adjustment under Subsection (f), if any. In determining the amount of annual debt service required, the estimated tax levy from applying the receiving district's current debt service tax rate, if any, to the territory that has been annexed shall be deducted.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
CREATION OF DISTRICT BY DETACHMENT

Sec. 13.101. Creation of District by Detaching Territory from Existing District.

(a) A new school district may be created by detaching territory from an existing school district or existing contiguous school districts and establishing a new school district.

(b) A school district created under this subchapter has all the rights and privileges of other independent school districts.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.102. Minimum Area and Attendance Requirements.

A new district may not be created with an area of less than nine square miles or fewer than 8,000 students in average daily attendance, and a district may not be reduced to an area of less than nine square miles or fewer than 8,000 students in average daily attendance.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.103. Initiation of Detachment.

Creation of a new district by detachment is initiated by resolution of the board of trustees of each district from which territory is to be detached or by a petition presented to the commissioners court. A petition under this subchapter must:

(1) give the metes and bounds of the proposed new district;

(2) be signed by at least 10 percent of the registered voters residing in the proposed area to be detached from an existing district; and

(3) be addressed to the commissioners court of the county in which the territory of the proposed district is located or, if the territory is in more than one county, to the commissioners court of each county in which the territory is located.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.104. Election.

(a) Not later than the 30th day after the date the commissioners court receives a petition under this subchapter, the commissioners court shall hold a hearing on the validity of the petition. If the commissioners court determines the petition is valid, each board of trustees shall order an election to be held on the same date in each district.

(b) The ballot shall be printed to permit voting for or against the proposition: "Creation of a new school district that includes the following territory from the _____ School District: _____." The ballot description of the territory to be detached must be sufficient to give general notice of the territory affected.

(c) An election on the detachment of the territory and creation of a new district has no effect unless at least 25 percent of the registered voters of each district vote in the election in which the issue is on the ballot.

(d) The boards of trustees shall report the results of the election to the appropriate commissioners courts, which shall declare the results of the election. The new school district is created only if the proposition receives:

(1) a majority of the votes in the territory to be detached; and

(2) a majority of the votes in the remaining territory in each district from which property is to be detached in the manner prescribed by Section 13.003.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.105. Creation of District.

(a) If all the requirements of this subchapter are met, the commissioners court shall enter an order creating the new school district. If the new district contains territory in two or more counties, the order must be concurred in by the commissioners court of each county concerned.

(b) At the time the order creating the district is made, the commissioners court of the county in which the largest portion of the district's territory is located shall appoint a board of seven trustees for the new district to serve until the next regular election of trustees, when a board of trustees shall be elected in compliance with Chapter 11.

(c) Title to school district real property in the territory detached vests in the new district. The new district assumes and is liable for any portion of outstanding indebtedness of the district from which the territory was detached that is allocated to the new district under Section 13.004.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.106. Continuing Contract [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.
(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971.)

Sec. 13.107. Status Under Continuing Contract [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.
(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971.)

Sec. 13.108. Administrative Personnel [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971.)

Sec. 13.109. Discharge During Year; Suspension Without Pay [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971; am. Acts 1993, 73rd Leg., ch. 514 (H.B. 2415), § 1, effective September 1, 1993.)

Sec. 13.110. Release At End of Year [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971; am. Acts 1984, 68th Leg., 2nd C.S., ch. 28 (H.B. 72), art. III, part A, § 1, effective September 1, 1984.)

Sec. 13.111. Notice [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971; am. Acts 1993, 73rd Leg., ch. 514 (H.B. 2415), § 2, effective September 1, 1993.)

Sec. 13.112. Hearing [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971; am. Acts 1984, 68th Leg., 2nd C.S., ch. 28 (H.B. 72), art. III, part A, § 2, effective September 1, 1984; am. Acts 1985, 69th Leg., ch. 388 (H.B. 1532), § 1, effective August 26, 1985.)

Sec. 13.113. Suspension Without Pay Pending Discharge [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971; am. Acts 1993, 73rd Leg., ch. 514 (H.B. 2415), § 3, effective September 1, 1993.)

Sec. 13.114. Decision of Board [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971.)

Sec. 13.115. Appeals [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971; am. Acts 1984, 68th Leg., 2nd C.S., ch. 28 (H.B. 72), art. I, part D, § 5, effective September 1, 1984; am. Acts 1993, 73rd Leg., ch. 514 (H.B. 2415),§ 4, effective September 1, 1993.)

Sec. 13.116. Resignations [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1971, 62nd Leg., ch. 405 (H.B. 279), § 2, effective May 26, 1971.)

Sec. 13.117. Supplemental Contracts for Math and Science Teachers [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1983, 68th Leg., ch. 845 (H.B. 1147), § 1, effective August 29, 1983.)

SUBCHAPTER D CONSOLIDATION

Sec. 13.151. Districts That May Consolidate.

(a) By the procedure provided by this subchapter, two or more school districts may consolidate into a single school district.

(b) The consolidated district may include area in more than one county.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.152. Resolution or Petition.

Consolidation is initiated in each district proposed to be consolidated by either a resolution adopted by the board of trustees of the district or a petition requesting an election on the question that is signed by the required number of registered voters of the district. Each district is not required to use the same method to initiate consolidation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 8, effective September 1, 2003.)

Sec. 13.1521. Receipt or Consideration of Petition Requesting Detachment and Annexation After Adoption of Consolidation Resolutions.

If a resolution in favor of consolidation has been adopted by the board of trustees of each school

district proposed to be consolidated into a particular single district, none of those boards of trustees may receive or consider a petition requesting detachment and annexation under Subchapter B without the consent of each of the other of those boards of trustees:

(1) before consolidation; or

(2) before consolidation is disapproved at an election under Section 13.153.

(Enacted by Acts 2013, 83rd Leg., ch. 336 (H.B. 2016), § 1, effective June 14, 2013.)

Sec. 13.153. Election Order; Notice.

(a) Each board of trustees shall:

(1) issue an order for an election to be held on the same day in each district included in the proposed consolidated district; and

(2) give notice of the election.

(b) If no local consolidation agreement is submitted under Section 13.158, the ballot in the election shall be printed to permit voting for or against the proposition: "Consolidation of (name of school districts) into a single school district."

(c) If a local consolidation agreement is submitted under Section 13.158, the ballot in the election shall be printed to permit voting for or against the proposition: "Consolidation of (name of school districts) into a single school district under a local consolidation agreement."

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 9, effective September 1, 2003.)

Sec. 13.154. Canvass; Result.

(a) Each board of trustees shall canvass the returns of the election in its district and shall publish the results separately for each district.

(b) If the votes cast in all districts show a majority in each district voting in favor of the consolidation, the board of trustees shall declare the school districts consolidated.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.155. Status; Governance.

(a) The consolidated district is an independent school district.

(b) Except as provided by Subsection (c) or by a local consolidation agreement under Section 13.158, the board of trustees of the school district having the greatest membership on the last day of the school year preceding the consolidation serves as the board of trustees of the consolidated district until the next regular election of trustees, at which time the consolidated district shall elect a board of trustees.

(c) Except as provided by a local consolidation agreement under Section 13.158, if the membership on the last day of the school year preceding the consolidation in the district with the largest membership is more than five times that of the other district or districts consolidating with it, the trustees of the district with the largest membership continue to serve for the terms for which they have been elected and only the vacancies, as they occur, are filled from the consolidated district.

(d) The powers, duties, and terms of office of the trustees are governed by Chapter 11.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 10, effective September 1, 2003.)

Sec. 13.156. Title to Property; Assumption of Debt.

Title to all property of the consolidating districts vests in the consolidated district, and the consolidated district assumes and is liable for the outstanding indebtedness of the consolidating districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.157. Dissolution of Consolidated School District.

(a) A consolidated school district may be dissolved by the same procedure provided for consolidation, except that it is not necessary to provide polling places in each of the former districts.

(b) If the district is dissolved, each of the former districts is restored as a separate district and classified as an independent school district.

(c) Title to property of the consolidated district that is allocated to each of the restored districts under Section 13.004 vests in the restored districts, and each of the restored districts assumes and is liable for the indebtedness of the consolidated district as allocated under that section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.158. Local Consolidation Agreement.

(a) Before issuing an order for an election under Section 13.153, the boards of trustees of the districts to be consolidated may draft a local consolidation agreement to be submitted to the registered voters in each district. An agreement must set out the composition and method of election of the consolidated board of trustees. The identical agreement must be submitted to the registered voters of each district.

(b) A local consolidation agreement may provide the following:

(1) an effective date that is not more than one year after the date of the consolidation election;

(2) a schedule to elect the board of trustees of the consolidated district before or after the effective date of consolidation;

(3) that the consolidated district educate particular grades within the boundaries of a district being consolidated;

(4) that the consolidated district maintain a specific campus in operation;

(5) that if the votes cast in some districts, but not all districts, show a majority voting in favor of the consolidation, the districts receiving a favorable vote may consolidate;

(6) that a majority of the votes cast in each district must be in favor of consolidation for there to be a consolidation; or

(7) any other provision consistent with state and federal law.

(c) Not later than 30 days before a consolidation election is held, the boards of trustees of the districts to be consolidated may amend the local consolidation agreement. After a successful election to consolidate, the local consolidation agreement may not be amended for five years following the effective date of consolidation, unless a shorter period is set out in the agreement. After that time, the agreement may be amended only by unanimous vote of the board of trustees of the district.

(d) The commissioner may waive a requirement under this section or Section 13.159 on application of the boards of trustees of all districts proposed for consolidation.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 11, effective September 1, 2003.)

Sec. 13.159. Public Inspection and Hearing.

(a) A local consolidation agreement under Section 13.158 must be made available for public inspection during regular business hours at the central administration building of each district for at least 25 days before the consolidation election.

(b) Each district shall hold a public hearing to allow interested persons to present comments related to the local consolidation agreement. If the agreement is amended following a public hearing, before the consolidation election each district shall hold another public hearing to consider the amendment.

(c) Each district shall provide notice of each public hearing to the public.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 11, effective September 1, 2003.)

SUBCHAPTER E
ABOLITION OF INDEPENDENT SCHOOL DISTRICT

Sec. 13.201. Eligibility.

An independent school district may be abolished in the manner provided by this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.202. Petition.

Abolition of an independent school district is initiated by a petition requesting an election on the question. The petition must be signed by a majority of the board of trustees of the district to be abolished and must be presented to the county judge of each county in which part of the independent school district is situated.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.203. Election.

(a) Each county judge receiving a valid petition shall:

(1) issue an order for an election to be held on the same day in each county; and

(2) give notice of the election.

(b) The ballot in the election shall be printed to permit voting for or against the proposition: "Abolition of the _____ Independent School District."

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.204. Order Abolishing District.

(a) The commissioners court of each county shall canvass the returns of the election in its county.

(b) If a majority of the total votes cast in the district favor abolishing the district, each commissioners court shall declare the results. The abolition is effective only if all territory of the district is annexed to other contiguous districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.205. Disposition of Territory; Affairs of Abolished District.

(a) The property and affairs of the abolished district are governed by this section unless otherwise controlled by the manner in which the district was abolished.

(b) Each commissioners court shall annex the territory of the abolished independent school district in its county to one or more contiguous districts in the county. The commissioners court may annex

territory to a school district only if the board of trustees of that district approves the annexation.

(c) Title to the real property of the abolished district vests in the district to which the property is annexed.

(d) If at the time of its abolition the independent school district does not have outstanding indebtedness, all uncollected taxes on the property of the district for the years up to and including the last day of January of the year immediately following the year in which the independent school district is abolished shall be levied and collected, at the same rate and in the same manner as authorized for the independent school district immediately before its abolition, by the school district to which the territory containing the property on which taxes are due is annexed.

(e) Each school district to which territory from the abolished district is annexed assumes and is liable for the indebtedness of the abolished district that is allocated to the district under Section 13.004.

(f) A creditor of an abolished independent school district must file the creditor's claim against the district with the commissioners court not later than the 60th day after the effective date on which the independent school district is abolished and, if the claim is not allowed, may maintain suit against the abolished independent school district as such. Suit must be brought not later than the first anniversary of the date on which the claim is disallowed. Process in a suit, if necessary, may be served on the county judge of each county in which the district was located. The county commissioners court shall defend any suit against an abolished independent school district but may settle the litigation as the commissioners court considers advisable. This section does not waive any defense available to the abolished district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER F
OTHER BOUNDARY CHANGES

Sec. 13.231. Minor Boundary Adjustments by Agreement.

(a) Two contiguous school districts may adjust their common boundary by agreement if, at the time the agreement is executed:

(1) no child who resides in the territory that is transferred from one jurisdiction to the other is enrolled in a school of the district from which the territory is transferred; and

(2) the taxable value of the territory that is transferred from one jurisdiction to the other does not exceed one-tenth of one percent of the total taxable value of all property in the school district from which the territory is transferred.

(b) In this section, "taxable value" has the meaning assigned by Section 403.302, Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER G
INCENTIVE AID PAYMENTS

Sec. 13.281. Incentive Aid.

(a) A school district created after August 22, 1963, through consolidation may qualify for incentive aid payments from the state.

(b) A school district may not receive incentive aid payments for a period of more than 10 years.

(c) Incentive aid payments may be made only on application to the agency and in compliance with this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.282. Amount; Computation.

(a) The amount of incentive aid payments may not exceed the difference between:

(1) the sum of the entitlements computed under Section 42.253 that would have been paid to the districts included in the reorganized district if the districts had not been consolidated; and

(2) the amount to which the reorganized district is entitled under Section 42.253.

(b) If the reorganized district is not eligible for an entitlement under Section 42.253, the amount of the incentive aid payments may not exceed the sum of the entitlements computed under Section 42.253 for which the districts included in the reorganized district were eligible in the school year when they were consolidated.

(c) If there is a series of consolidations at intervals in compliance with this chapter, the school district last organized is eligible to receive at due times the total sum of the series of incentive aid payments as computed separately at the time of each consolidation, subject to this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.283. Payments Reduced.

The incentive aid payments shall be reduced in direct proportion to any reduction in the average daily attendance as determined under Section 42.005 of the reorganized school district for the preceding year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.284. Conditions for Payment.

To receive incentive aid payments:

(1) the geographical boundaries of the proposed district must be submitted to the agency for approval; and

(2) the geographical boundaries approved by the agency must be set forth in the petition for a consolidation election, if applicable.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 13.285. Cost.

The cost of incentive aid payments authorized by this subchapter shall be paid from the foundation school fund.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 1, effective September 1, 1997.)

CHAPTER 18
JOB CORPS DIPLOMA PROGRAMS

Section

Sec. 18.001. Definitions.

In this chapter:

(1) "Job Corps diploma program" or "diploma program" means a public school high school diploma program established and operated under this chapter.

(2) "Job Corps training program" means any corporate entity authorized to do business in the state and currently under contract with the United States Department of Labor to operate a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.).

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.002. Establishment.

(a) A Job Corps training program may establish a high school diploma program to operate public secondary schools at Job Corps facilities throughout the state.

(b) A Job Corps diploma program established under this chapter is separate and distinct from the United States Department of Labor.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.003. Authority.

A Job Corps diploma program may offer a secondary school curriculum, a high school diploma program, and a General Educational Development program.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.004. Goals.

The goals of a Job Corps diploma program are to:

(1) serve at-risk students who have not been successful in a traditional school setting;

(2) increase student success rates in obtaining and maintaining employment; and

(3) decrease future societal costs by offering a high school diploma program to students who would benefit from Job Corps academic and vocational programs.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.005. Governance; Limitation on Powers; Duties.

(a) A Job Corps diploma program shall be governed as provided by this chapter and policies established by the Job Corps training program operating the diploma program. Unless otherwise provided by this chapter, a provision of this code applicable to a school district does not apply to a Job Corps diploma program.

(b) A Job Corps diploma program may not impose a tax.

(c) A Job Corps diploma program shall:

(1) develop educational programs specifically designed for persons eligible for enrollment in a Job Corps training program established by the United States Department of Labor;

(2) coordinate educational programs and services in the diploma program with programs and services provided by the United States Department of Labor and other federal and state agencies and local political subdivisions and by persons who provide programs and services under contract with the United States Department of Labor;

(3) provide a course of instruction that includes the required curriculum under Subchapter A, Chapter 28;

(4) require that students enrolled in the diploma program satisfy the requirements of Section 39.025 before receiving a diploma under this chapter; and

(5) comply with a requirement imposed under this title or a rule adopted under this title relating to the Public Education Information Management System (PEIMS) to the extent necessary to determine compliance with this chapter, as determined by the commissioner.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.006. Accountability.

(a) The commissioner shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to be used in assigning an annual performance rating to Job Corps diploma programs comparable to the ratings assigned to school districts under Section 39.054. The commissioner may develop and implement a system of distinction designations consistent with Subchapter G, Chapter 39, where appropriate, to be used in assigning distinction designations to Job Corps diploma programs comparable to the distinction designations assigned to campuses under Subchapter G, Chapter 39.

(b) In addition to other factors determined to be appropriate by the commissioner, the accountability system must include consideration of:

(1) student performance on the end-of-course assessment instruments required by Section 39.023(c); and

(2) dropout rates, including dropout rates and diploma program completion rates for the grade levels served by the diploma program.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 20, effective June 19, 2009.)

Sec. 18.007. Eligibility for Certain Programs and Services.

(a) Any person enrolled in good standing in a Job Corps diploma program who is not a high school graduate is eligible for programs or services under this chapter.

(b) A person's eligibility for programs and services under this chapter does not exclude the person from being eligible for an educational program or service under any other chapter of this code.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.008. Grants and Federal Funds.

(a) A Job Corps diploma program may accept a grant from a public or private organization and may spend those funds to supplement programs and provide student services.

(b) A diploma program may accept federal funds and shall use those funds in compliance with applicable federal law, regulations, and guidelines.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.009. Costs.

(a) A Job Corps training program shall pay the cost of operating its diploma program.

(b) The operating costs of a program may not be charged to a school district.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

Sec. 18.010. Program Employees.

(a) Job Corps diploma program employees are not considered employees of the state.

(b) A diploma program may establish personnel policies as necessary to ensure its effective and efficient operation under this chapter.

(c) A diploma program employee required under Chapter 21 to hold a certificate if employed by a school district must be certified in accordance with that chapter.

(Enacted by Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 1, effective June 17, 2005.)

CHAPTER 19
SCHOOLS IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Section

Sec. 19.001. Definitions.

In this chapter:

(1) "Board" means the Texas Board of Criminal Justice.

(2) "Department" means the Texas Department of Criminal Justice.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 19.002. Establishment.

The school district established by the Texas Board of Corrections in 1969 shall be known as the Windham School District, an entity that is separate and distinct from the Texas Department of Criminal Justice. The district may establish and operate schools at the various facilities of the Texas Department of Criminal Justice.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 19.0021. Limited Purpose Review [Expired].

Expired pursuant to Acts 2011, 82nd Leg., ch. 1232 (S.B. 652), § 1.01, effective September 1, 2013.

(Enacted by Acts 2011, 82nd Leg., ch. 1232 (S.B. 652), § 1.01, effective June 17, 2011.)

Sec. 19.0022. Sunset Provision.

The Windham School District is subject to review under Chapter 325, Government Code (Texas Sunset Act). The district shall be reviewed during the period in which the Texas Department of Criminal Justice is reviewed.

(Enacted by Acts 2013, 83rd Leg., ch. 1154 (S.B. 213), § 27, effective September 1, 2013.)

Sec. 19.003. Goals of the District.

The goals of the district in educating its students are to:

(1) reduce recidivism;

(2) reduce the cost of confinement or imprisonment;

(3) increase the success of former inmates in obtaining and maintaining employment; and

(4) provide an incentive to inmates to behave in positive ways during confinement or imprisonment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 19.004. Governance, Limitation on Powers, and Duties.

(a) The district shall be governed as provided by this chapter and policies established by the board. Unless otherwise specifically provided, a provision of this code applying to school districts does not apply to the district.

(b) The district may not impose a tax.

(c) The district shall:

(1) develop educational programs specifically designed for persons eligible under Section 19.005 and ensure that those programs, such as GED and ESL, are integrated with an applied vocational context leading to employment;

(1-a) develop vocational training programs specifically designed for persons eligible under Section 19.005 and prioritize the programs that result in certification or licensure, considering the impact that a previous felony conviction has on the ability to secure certification, licensure, and employment;

(1-b) continually assess job markets in this state and update, augment, and expand the vocational training programs developed under Subdivision (1-a) as necessary to provide relevant and marketable skills to students; and

(2) coordinate educational programs and services in the department with those provided by other state agencies, by political subdivisions, and by persons who provide programs and services under contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 1142 (H.B. 2837), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 274 (H.B. 799), § 1, effective September 1, 2013.)

Sec. 19.0041. Program Data Collection and Biennial Evaluation and Report.

(a) To evaluate the effectiveness of its programs, the Windham School District shall compile and analyze information for each of its programs, including performance-based information and data related to academic, vocational training, and life skills programs. This information shall include for each person who participates in district programs an evaluation of:

(1) institutional disciplinary violations;

(2) subsequent arrests;

(3) subsequent convictions or confinements;

(4) the cost of confinement;

(5) educational achievement;

(6) high school equivalency examination passage;

(7) the kind of training services provided;

(8) the kind of employment the person obtains on release;

(9) whether the employment was related to training;

(10) the difference between the amount of the person's earnings on the date employment is obtained following release and the amount of those earnings on the first anniversary of that date; and

(11) the retention factors associated with the employment.

(b) The Windham School District shall use the information compiled and analyzed under Subsection (a) to biennially:

(1) evaluate whether its programs meet the goals under Section 19.003 and make changes to the programs as necessary; and

(2) submit a report to the board, the legislature, and the governor's office.

(c) The Windham School District may enter into a memorandum of understanding with the department, the Department of Public Safety, and the Texas Workforce Commission to obtain and share data necessary to evaluate district programs.

(Enacted by Acts 2005, 79th Leg., ch. 1142 (H.B. 2837), § 2, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1154 (S.B. 213), § 28, effective September 1, 2013.)

Sec. 19.0042. Information to Be Provided by District Before Vocational Training Program Enrollment.

Before a person described by Section 19.005 enrolls in a district vocational training program, the district must inform the person in writing of:

(1) any rule or policy of a state agency that would impose a restriction or prohibition on the person in obtaining a certificate or license in connection with the vocational training program;

(2) the total number of district students released during the preceding 10 years who have completed a district vocational training program that allows for an opportunity to apply for a certificate or license from a state agency and, of those students:

(A) the number who have applied for a certificate or license from a state agency;

(B) the number who have been issued a certificate or license by a state agency; and

(C) the number who have been denied a certificate or license by a state agency; and

(3) the procedures for:

(A) requesting a criminal history evaluation letter under Section 53.102, Occupations Code;

(B) providing evidence of fitness to perform the duties and discharge the responsibilities of a licensed occupation for purposes of Section 53.023, Occupations Code; and

(C) appealing a state agency's denial of a certificate or license, including deadlines and due process requirements:

(i) to the State Office of Administrative Hearings under Subchapter C, Chapter 2001, Government Code; and

(ii) through any other available avenue.

(Enacted by Acts 2013, 83rd Leg., ch. 273 (H.B. 797), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 273 (H.B. 797), § 2 provides: "Section 19.0042, Education Code, as added by this Act, applies only regarding enrollment of a person in a Windham School District vocational training program on or after September 1, 2013."

Sec. 19.005. Eligibility for Certain Programs and Services.

(a) Any person confined or imprisoned in the department who is not a high school graduate is eligible for programs or services under this chapter paid for with money from the foundation school fund. To the extent space is available, the district may also offer programs or services under this chapter paid for with money from the foundation school fund to persons confined or imprisoned in the department who are high school graduates.

(b) Eligibility under this chapter does not make a person eligible for a program or service under any other chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1188 (S.B. 365), art. 1, § 1.51, effective September 1, 1999.)

Sec. 19.006. Grants and Federal Funds.

(a) The district may accept a grant from a public or private organization and may spend those funds to operate district programs and provide district services.

(b) The district may accept federal funds and shall use those funds in compliance with applicable federal law, regulations, and guidelines.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 19.007. Costs to Be Borne by State.

(a) Except as authorized by Section 19.006 and this section, the state shall pay the cost of operating the district.

(b) The costs for persons eligible under Section 19.005 shall be paid from the foundation school fund.

(c) In addition to money from the foundation school fund, the district may receive appropriated money from the department for educational programs.

(d) The operating costs of the district may not be charged to another school district.

(e) The district may participate in the instructional materials program under Chapter 31.

(f) In addition to other amounts received by the district under this section, the district is entitled to

state aid in an amount equal to the product of $2,000 multiplied by the number of classroom teachers, full-time librarians, full-time school counselors certified under Subchapter B, Chapter 21, and full-time school nurses who are employed by the district and who would be entitled to a minimum salary under Section 21.402 if employed by a school district operating under Chapter 11.

(g) [Contingent on determination of commissioner of education — See Note] In addition to other amounts received by the district under this section, the district is entitled to state aid in the amount necessary to fund the salary increases required by Section 19.009(d-2).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 2, effective September 1, 1997; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 11, effective July 19, 2011; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 5, effective June 14, 2013.)

Sec. 19.008. Allocation of Costs.

(a) The commissioner shall allocate funds to the district from the foundation school fund based on an amount, established in the General Appropriations Act, for each contact hour between a teacher and a person eligible under Section 19.005, including associated administrative costs, for the best 180 of 210 school days in each year of the state fiscal biennium. Those funds may be spent only for district administrative costs related to education and for district educational programs and services and only with the approval of the board.

(b) The agency by rule shall establish a time and manner for the district to report and verify contact hours to the agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 19.009. District Employees.

(a) District employees are not considered employees of the state except as provided for in this section. The board may establish personnel policies as necessary to ensure the effective and efficient operation of the district.

(b) Each employee of the district shall serve 220 or 226 days each year, based on position, as determined by the board.

(c) A district employee required under Subchapter B, Chapter 21, to hold a certificate must be certified in accordance with that subchapter.

(d) Each employee shall be paid according to a salary schedule approved by the board. The schedule may allow for salary differentiation that provides for salaries at a Windham School District school site to be commensurate with educator salaries in school districts contiguous to that school site.

(d-1) Each school year, the district shall pay an amount at least equal to $2,000 to each classroom teacher, full-time librarian, full-time school counselor certified under Subchapter B, Chapter 21, and full-time school nurse who is employed by the district and who would be entitled to a minimum salary under Section 21.402 if employed by a school district operating under Chapter 11. A payment under this section is in addition to wages the district would otherwise pay the employee during the school year.

(d-2) Beginning with the 2009-2010 school year, the district shall increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time school counselor certified under Subchapter B, Chapter 21, and full-time school nurse employed by the district by the greater of:

(1) $80; or

(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the district for social security coverage for the specified employees or by the district on behalf of the specified employees under Section 825.405, Government Code, may be provided using an amount equal to the product of $60 multiplied by the number of students in weighted average daily attendance in the district during the 2009-2010 school year.

(d-3) A payment under Subsection (d-2) is in addition to salary the district would otherwise pay the employees during the school year.

(e) Each employee of the district who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of any other district is covered.

(f) The state minimum personal leave program under Section 22.003 applies to a district employee in the same manner as that program applies to an employee of any other school district.

(g) The employees of the district are eligible for workers' compensation benefits under Chapter 501, Labor Code, and for group benefits under Chapter 1551, Insurance Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 10A, § 10A.510, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.04, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328

(H.B. 3646), § 8, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 6, effective June 14, 2013.)

Sec. 19.010. Strategic Plan and Annual Report.

(a) The district shall propose, and the board shall adopt with any modification the board finds necessary, a strategic plan that includes:

(1) a mission statement relating to the goals and duties of the district under this chapter;

(2) goals to be met by the district in carrying out the mission stated; and

(3) specific educational, vocational training, and counseling programs to be conducted by the district to meet the goals stated in the plan.

(b) The district shall prepare a report for each fiscal year documenting district activities under the strategic plan. Not later than January 31 of each year, the district shall file the report for the preceding fiscal year with the board, the governor, the lieutenant governor, the speaker of the house of representatives, and the agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 19.011. Coordination with Other State Agencies.

(a) In order to achieve the goals stated in Section 19.003, the district with the cooperation of the Health and Human Services Commission, the Texas Workforce Investment Council, the Texas Workforce Commission, the Texas Economic Development and Tourism Office, and the department shall provide persons confined or imprisoned in the department:

(1) information from local workforce and development boards on job training and employment referral services; and

(2) information on the tax refund voucher program under Subchapter H, Chapter 301, Labor Code.

(b) The district shall coordinate vocational education and job training programs with a local workforce development board authorized by the Texas Workforce Commission to ensure that district students are equipped with the skills necessary to compete for current and emerging jobs.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 818 (S.B. 281), art. 6, § 6.01, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1142 (H.B. 2837), § 3, effective September 1, 2005.)

SUBTITLE D
EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS

CHAPTER 21
EDUCATORS

Subchapter A. General Provisions

Subchapter B. Certification of Educators

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 21.001. Definition.

In this chapter, "commissioner" includes a person designated by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.002. Teacher Employment Contracts.

(a) A school district shall employ each classroom teacher, principal, librarian, nurse, or school counselor under:

(1) a probationary contract, as provided by Subchapter C;

(2) a continuing contract, as provided by Subchapter D; or

(3) a term contract, as provided by Subchapter E.

(b) A district is not required to employ a person other than an employee listed in Subsection (a) under a probationary, continuing, or term contract.

(c) Each board of trustees shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 7, effective June 14, 2013.)

Sec. 21.003. Certification Required.

(a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

(b) Except as otherwise provided by this subsection, a person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession and may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency. As long as a person employed by a district before September 1, 2011, to perform marriage and family therapy, as defined by Section 502.002, Occupations Code, is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 82 (S.B. 158), § 1, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1134 (H.B. 1386), § 5, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 8, effective June 14, 2013.)

Sec. 21.0031. Failure to Obtain Certification; Contract Void.

(a) An employee's probationary, continuing, or term contract under this chapter is void if the employee:

(1) does not hold a valid certificate or permit issued by the State Board for Educator Certification;

(2) fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Subchapter B; or

(3) fails to comply with any requirement under Subchapter C, Chapter 22, if the failure results in suspension or revocation of the employee's certificate under Section 22.0831(f)(2).

(b) If a school district has knowledge that an employee's contract is void under Subsection (a):

(1) the district may, except as provided by Subsection (b-1):

(A) terminate the employee;

(B) suspend the employee with or without pay; or

(C) retain the employee for the remainder of the school year on an at-will employment basis in a position other than a position required to be held by an employee under a contract under Section 21.002 at the employee's existing rate of pay or at a reduced rate; and

(2) the employee is not entitled to the minimum salary prescribed by Section 21.402.

(b-1) A school district may not terminate or suspend under Subsection (b) an employee whose contract is void under Subsection (a)(1) or (2) because the employee failed to renew or extend the employee's certificate or permit if the employee:

(1) requests an extension from the State Board for Educator Certification to renew, extend, or otherwise validate the employee's certificate or permit; and

(2) not later than the 10th day after the date the contract is void, takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by the State Board for Educator Certification.

(c) A school district's decision under Subsection (b) is not subject to appeal under this chapter, and the notice and hearing requirements of this chapter do not apply to the decision.

(d) This section does not affect the rights and remedies of a party in an at-will employment relationship.

(e) This section does not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.

(f) For purposes of this section, a certificate or permit is not considered to have expired if:

(1) the employee has completed the requirements for renewal of the certificate or permit;

(2) the employee submitted the request for renewal prior to the expiration date; and

(3) the date the certificate or permit would have expired is before the date the State Board for Educator Certification takes action to approve the renewal of the certificate or permit.

(Enacted by Acts 2003, 78th Leg., ch. 181 (H.B. 1022), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 968 (H.B. 1334), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 1, effective September 28, 2011.)

Sec. 21.004. Teacher Recruitment Program.

(a) To the extent that funds are available, the agency, the State Board for Educator Certification, and the Texas Higher Education Coordinating Board shall develop and implement programs to

identify talented students and recruit those students and persons, including high school and undergraduate students, mid-career and retired professionals, honorably discharged and retired military personnel, and members of underrepresented gender and ethnic groups, into the teaching profession.

(b) From available funds, the agency, the State Board for Educator Certification, and the Texas Higher Education Coordinating Board shall develop and distribute materials that emphasize the importance of the teaching profession and inform individuals about state-funded loan forgiveness and tuition assistance programs.

(c) The commissioner, in cooperation with the commissioner of higher education and the executive director of the State Board for Educator Certification, shall annually identify the need for teachers in specific subject areas and geographic regions and among underrepresented groups. The commissioner shall give priority to developing and implementing recruitment programs to address those needs from the agency's discretionary funds.

(d) The agency, the State Board for Educator Certification, and the Texas Higher Education Coordinating Board shall encourage the business community to cooperate with local schools to develop recruiting programs designed to attract and retain capable teachers, including programs to provide summer employment opportunities for teachers.

(e) The agency, the State Board for Educator Certification, and the Texas Higher Education Coordinating Board shall encourage major education associations to cooperate in developing a long-range program promoting teaching as a career and to assist in identifying local activities and resources that may be used to promote the teaching profession.

(f) Funds received for teacher recruitment programs may be used only to publicize and implement the programs.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 7, effective June 19, 1999.)

Sec. 21.005. High-Quality Teachers.

The commissioner may by rule establish a statewide standard to be used to certify each school district that is preparing, training, and recruiting high-quality teachers in a manner consistent with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110).

(Enacted by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 5, effective June 20, 2003.)

Sec. 21.006. Requirement to Report Misconduct.

(a) In this section, "abuse" has the meaning assigned by Section 261.001, Family Code, and includes any sexual conduct involving an educator and a student or minor.

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the State Board for Educator Certification if the superintendent or director has reasonable cause to believe that:

(1) an educator employed by or seeking employment by the district, service center, or shared services arrangement has a criminal record;

(2) an educator's employment at the district, service center, or shared services arrangement was terminated based on a determination that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent amendments;

(C) illegally transferred, appropriated, or expended funds or other property of the district, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event;

(3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to terminate the educator based on a determination that the educator engaged in misconduct described by Subdivision (2); or

(4) the educator engaged in conduct that violated the assessment instrument security procedures established under Section 39.0301.

(b-1) A superintendent or director of a school district shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have engaged in misconduct described by Subsection (b)(2)(A), despite the educator's resignation from district employment before completion of the investigation.

(c) The superintendent or director must notify the State Board for Educator Certification by filing a report with the board not later than the seventh day after the date the superintendent or director first learns about an alleged incident of misconduct described by Subsection (b). The report must be:

(1) in writing; and

(2) in a form prescribed by the board.

(d) The superintendent or director shall notify the board of trustees or governing body of the school district, regional education service center, or shared services arrangement and the educator of the filing of the report required by Subsection (c).

(e) A superintendent or director who in good faith and while acting in an official capacity files a report with the State Board for Educator Certification under this section is immune from civil or criminal liability that might otherwise be incurred or imposed.

(f) The State Board for Educator Certification shall determine whether to impose sanctions against a superintendent or director who fails to file a report in violation of Subsection (c).

(g) The State Board for Educator Certification shall propose rules as necessary to implement this section.

(h) The name of a student or minor who is the victim of abuse or unlawful conduct by an educator must be included in a report filed under this section, but the name of the student or minor is not public information under Chapter 552, Government Code.

(Enacted by Acts 2003, 78th Leg., ch. 374 (S.B. 1488), § 2, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 511 (S.B. 606), § 1, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 2, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 4 provides: "Section 21.006(b-1), Education Code, as added by this Act, applies to an investigation of possible public school educator misconduct begun on or after the effective date of this Act [September 1, 2011], regardless of whether the alleged misconduct occurred before, on, or after the effective date of this Act."

Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 6 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 21.007. Notice on Certification Record of Alleged Misconduct.

(a) In this section, "board" means the State Board for Educator Certification.

(b) The board shall adopt a procedure for placing a notice of alleged misconduct on an educator's public certification records. The procedure adopted by the board must provide for immediate placement of a notice of alleged misconduct on an educator's public certification records if the alleged misconduct presents a risk to the health, safety, or welfare of a student or minor as determined by the board.

(c) The board must notify an educator in writing when placing a notice of an alleged incident of misconduct on the public certification records of the educator.

(d) The board must provide an opportunity for an educator to show cause why the notice should not be placed on the educator's public certification records. The board shall propose rules establishing the length of time that a notice may remain on the educator's public certification records before the board must:

(1) initiate a proceeding to impose a sanction on the educator on the basis of the alleged misconduct; or

(2) remove the notice from the educator's public certification records.

(e) If it is determined that the educator has not engaged in the alleged incident of misconduct, the board shall immediately remove the notice from the educator's public certification records.

(f) The board shall propose rules necessary to administer this section.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 3, effective June 15, 2007.)

SUBCHAPTER B
CERTIFICATION OF EDUCATORS

Sec. 21.031. Purpose.

(a) The State Board for Educator Certification is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

(b) In proposing rules under this subchapter, the board shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.0311. Tuition for Certain Children from Other States [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1975, 64th Leg., ch. 504 (H.B. 575), § 1, effective September 1, 1975.)

Sec. 21.0312. Tuition for Certain Military Dependents [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1981, 67th Leg., ch. 675 (S.B. 180), § 9, effective September 1, 1981.)

Sec. 21.0313. Identification Required for Enrollment [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995.

(Enacted by Acts 1989, 71st Leg., ch. 1224 (H.B. 1440), § 1, effective September 1, 1989.)

Sec. 21.032. Definition.

In this subchapter, "board" means the State Board for Educator Certification.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.033. State Board for Educator Certification.

(a) The State Board for Educator Certification is composed of 14 members. The commissioner of education shall appoint an employee of the agency to represent the commissioner as a nonvoting member. The commissioner of higher education shall appoint an employee of the Texas Higher Education Coordinating Board to represent the commissioner as a nonvoting member. The governor shall appoint a dean of a college of education in this state as a nonvoting member. The remaining 11 members are appointed by the governor with the advice and consent of the senate, as follows:

(1) four members must be teachers employed in public schools;

(2) two members must be public school administrators;

(3) one member must be a public school counselor; and

(4) four members must be citizens, three of whom are not and have not, in the five years preceding appointment, been employed by a public school district or by an educator preparation program in an institution of higher education and one of whom is not and has not been employed by a public school district or by an educator preparation program in an institution of higher education.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the person appointed.

(c) A board member is immune from civil suit for any act performed in good faith in the execution of duties as a board member.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1174 (S.B. 520), § 1, effective June 20, 1997; am. Acts 2003, 78th Leg., ch. 1170 (S.B. 287), art. 12, § 12.01, effective September 1, 2003.)

Sec. 21.034. Terms; Vacancy.

(a) The board members appointed by the governor hold office for staggered terms of six years with the terms of one-third of the members expiring on February 1 of each odd-numbered year. A member appointed by the commissioner of education or the commissioner of higher education serves at the will of the appointing commissioner.

(b) In the event of a vacancy during a term of a member appointed by the governor, the governor shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

(c) A vacancy arises if a member appointed by the governor no longer qualifies for the office to which the member was appointed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.035. Administration by Agency.

The Texas Education Agency shall provide the board's administrative functions and services.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1112 (H.B. 2455), art. 1, § 1.01, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1227 (H.B. 1116), art. 1, § 1.04, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.002, effective September 1, 2007.)

Sec. 21.036. Officers.

The board shall elect one of its members to serve as presiding officer for a term of two years. The presiding officer is entitled to vote on all matters before the board. The board may elect other officers from among its membership.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1174 (S.B. 520), § 2, effective June 20, 1997.)

Sec. 21.037. Compensation.

A board member may not receive compensation for serving on the board. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.038. Meetings.

(a) The board shall meet at least once in each quarter of the calendar year.

(b) The board may meet at other times at the call of the presiding officer or as provided by the rules of the board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.039. Executive Director; Personnel [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1227 (H.B. 1116), § 1.04, effective September 1, 2005.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 3, effective September 1, 2003.)

Sec. 21.040. General Powers and Duties of Board.

The board shall:

(1) supervise the executive director's performance;

(2) approve an operating budget for the board and make a request for appropriations;

(3) appoint the members of any advisory committee to the board;

(4) for each class of educator certificate, appoint an advisory committee composed of members of that class to recommend standards for that class to the board;

(5) provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees;

(6) develop and implement policies that clearly define the respective responsibilities of the board and the board's staff; and

(7) execute interagency contracts to perform routine administrative functions.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 2, effective June 17, 2011.)

Sec. 21.041. Rules; Fees.

(a) The board may adopt rules as necessary for its own procedures.

(b) The board shall propose rules that:

(1) provide for the regulation of educators and the general administration of this subchapter in a manner consistent with this subchapter;

(2) specify the classes of educator certificates to be issued, including emergency certificates;

(3) specify the period for which each class of educator certificate is valid;

(4) specify the requirements for the issuance and renewal of an educator certificate;

(5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;

(6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;

(7) provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code;

(8) provide for the adoption, amendment, and enforcement of an educator's code of ethics;

(9) provide for continuing education requirements; and

(10) provide for certification of persons performing appraisals under Subchapter H.

(c) The board shall propose a rule adopting a fee for the issuance and maintenance of an educator certificate that, when combined with any fees imposed under Subsection (d), is adequate to cover the cost of administration of this subchapter.

(d) The board may propose a rule adopting a fee for the approval or renewal of approval of an educator preparation program, or for the addition of a certificate or field of certification to the scope of a program's approval. A fee imposed under this subsection may not exceed the amount necessary, as determined by the board, to provide for the administrative cost of approving, renewing the approval of, and appropriately ensuring the accountability of educator preparation programs under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 723 (S.B. 174), § 1, effective June 19, 2009.)

Sec. 21.042. Approval of Rules.

The State Board for Educator Certification must submit a written copy of each rule it proposes to adopt to the State Board of Education for review. The State Board of Education may reject a proposed rule by a vote of at least two-thirds of the members of the board present and voting. If the State Board of Education fails to reject a proposal before the 90th day after the date on which it receives the proposal, the proposal takes effect as a rule of the State Board for Educator Certification as provided by Chapter 2001, Government Code. The State Board of Education may not modify a rule proposed by the State Board for Educator Certification.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.043. Access to PEIMS Data.

The agency shall provide the board with access to data obtained under the Public Education Information Management System (PEIMS).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.044. Educator Preparation.

(a) The board shall propose rules establishing the training requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The board shall specify the minimum academic qualifications required for a certificate.

(b) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the curriculum for that degree, instruction in detection and education of students with dyslexia. This subsection does not apply to a person who obtains a certificate through an alternative certification program adopted under Section 21.049.

(c) The instruction under Subsection (b) must:

(1) be developed by a panel of experts in the diagnosis and treatment of dyslexia who are:

(A) employed by institutions of higher education; and

(B) approved by the board; and

(2) include information on:

(A) characteristics of dyslexia;

(B) identification of dyslexia; and

(C) effective, multisensory strategies for teaching students with dyslexia.

(c-1) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction in detection of students with mental or emotional disorders.

(c-2) The instruction under Subsection (c-1) must:

(1) be developed by a panel of experts in the diagnosis and treatment of mental or emotional disorders who are appointed by the board; and

(2) include information on:

(A) characteristics of the most prevalent mental or emotional disorders among children;

(B) identification of mental or emotional disorders;

(C) effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavioral interventions and supports; and

(D) providing, in compliance with Section 38.010, notice and referral to a parent or guardian of a student with a mental or emotional disorder so that the parent or guardian may take appropriate action such as seeking mental health services.

(d) In proposing rules under this section, the board shall specify that to obtain a certificate to teach an "applied STEM course," as that term is defined by Section 28.027, at a secondary school, a person must:

(1) pass the certification test administered by the recognized national or international business and industry group that created the curriculum the applied STEM course is based on; and

(2) have at a minimum:

(A) an associate degree from an accredited institution of higher education; and

(B) three years of work experience in an occupation for which the applied STEM course is intended to prepare the student.

(e) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1091]** In proposing rules under this section for a person to obtain a certificate to teach a health science technology education course, the board shall specify that a person must have:

(1) an associate degree or more advanced degree from an accredited institution of higher education;

(2) current licensure, certification, or registration as a health professions practitioner issued by a nationally recognized accrediting agency for health professionals; and

(3) at least two years of wage earning experience utilizing the licensure requirement.

(e) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1282]** Each educator preparation program must provide information regarding:

(1) the skills that educators are required to possess, the responsibilities that educators are required to accept, and the high expectations for students in this state;

(2) the effect of supply and demand forces on the educator workforce in this state;

(3) the performance over time of the educator preparation program;

(4) the importance of building strong classroom management skills; and

(5) the framework in this state for teacher and principal evaluation, including the procedures followed in accordance with Subchapter H.

(f) The board may not propose rules for a certificate to teach a health science technology education course that specify that a person must have a bachelor's degree or that establish any other creden-

tial or teaching experience requirements that exceed the requirements under Subsection (e).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 926 (S.B. 1620), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.001, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1091 (H.B. 3573), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 3, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1321 (S.B. 460), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 6(b) provides: "Subsection (b), Section 21.044, Education Code, as added by this Act, applies beginning with persons who commence enrollment in an institution of higher education during the 2011-2012 academic year."

Sec. 21.0441. Admission Requirements for Educator Preparation Programs.

(a) Rules of the board proposed under this subchapter must provide that a person, other than a person seeking career and technology education certification, is not eligible for admission to an educator preparation program, including an alternative educator preparation program, unless the person:

(1) except as provided by Subsection (b), satisfies minimum grade point average requirements prescribed by the board, not to exceed the following:

(A) an overall grade point average of at least 2.75 on a four-point scale or the equivalent on any course work previously attempted at a public or private institution of higher education; or

(B) a grade point average of at least 2.75 on a four-point scale or the equivalent for the last 60 semester credit hours attempted at a public or private institution of higher education; and

(2) if the person is seeking initial certification:

(A) has successfully completed at least:

(i) 15 semester credit hours in the subject-specific content area in which the person is seeking certification, if the person is seeking certification to teach mathematics or science at or above grade level seven; or

(ii) 12 semester credit hours in the subject-specific content area in which the person is seeking certification, if the person is not seeking certification to teach mathematics or science at or above grade level seven; or

(B) has achieved a satisfactory level of performance on a content certification examination, which may be a content certification examination administered by a vendor approved by the commissioner for purposes of administering such an examination for the year for which the person is applying for admission to the program.

(b) The board's rules must permit an educator preparation program to admit in extraordinary circumstances a person who fails to satisfy a grade point average requirement prescribed by Subsection (a)(1)(A) or (B), provided that:

(1) not more than 10 percent of the total number of persons admitted to the program in a year fail to satisfy the requirement under Subsection (a)(1)(A) or (B); and

(2) for each person admitted as described by this subsection, the director of the program determines and certifies, based on documentation provided by the person, that the person's work, business, or career experience demonstrates achievement comparable to the academic achievement represented by the grade point average requirement.

(Enacted by Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 4, effective September 1, 2013.)

Sec. 21.045. Accountability System for Educator Preparation Programs.

(a) The board shall propose rules establishing standards to govern the approval and continuing accountability of all educator preparation programs based on the following information that is disaggregated with respect to sex and ethnicity:

(1) results of the certification examinations prescribed under Section 21.048(a);

(2) performance based on the appraisal system for beginning teachers adopted by the board;

(3) achievement, including improvement in achievement, of students taught by beginning teachers for the first three years following certification, to the extent practicable; and

(4) compliance with board requirements regarding the frequency, duration, and quality of structural guidance and ongoing support provided by field supervisors to beginning teachers during their first year in the classroom.

(b) Each educator preparation program shall submit data elements as required by the board for an annual performance report to ensure access and equity. At a minimum, the annual report must contain the performance data from Subsection (a), other than the data required for purposes of Subsection (a)(3), and the following information, disaggregated by sex and ethnicity:

(1) the number of candidates who apply;

(2) the number of candidates admitted;

(3) the number of candidates retained;

(4) the number of candidates completing the program;

(5) the number of candidates employed in the profession after completing the program;

(6) the number of candidates retained in the profession; and

(7) any other information required by federal law.

(c) The board shall propose rules establishing performance standards for the Accountability System for Educator Preparation for accrediting educator preparation programs. At a minimum, performance standards must be based on Subsection (a). The board may propose rules establishing minimum standards for approval or renewal of approval of:

(1) educator preparation programs; or

(2) certification fields authorized to be offered by an educator preparation program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 723 (S.B. 174), § 2, effective June 19, 2009.)

Sec. 21.0451. Sanctions Under Accountability System for Educator Preparation Programs.

(a) The board shall propose rules for the sanction of educator preparation programs that do not meet accountability standards and shall annually review the accreditation status of each educator preparation program. The rules:

(1) shall provide for the assignment of the following accreditation statuses:

(A) not rated;

(B) accredited;

(C) accredited-warned;

(D) accredited-probation; and

(E) not accredited-revoked;

(2) may provide for the agency to take any necessary action, including one or more of the following actions:

(A) requiring the program to obtain technical assistance approved by the agency or board;

(B) requiring the program to obtain professional services under contract with another person;

(C) appointing a monitor to participate in and report to the board on the activities of the program; and

(D) if a program has been rated as accredited-probation under the Accountability System for Educator Preparation for a period of at least one year, revoking the approval of the program and ordering the program to be closed, provided that the board or agency must provide the opportunity for a hearing before the effective date of the closure; and

(3) shall provide for the agency to revoke the approval of the program and order the program to be closed if the program has been rated as accredited-probation under the Accountability System for Educator Preparation for three consecutive years, provided that the board or agency must provide the opportunity for a hearing before the effective date of the closure.

(b) Any action authorized or required to be taken against an educator preparation program under Subsection (a) may also be taken with regard to a particular field of certification authorized to be offered by an educator preparation program.

(c) A permissive revocation under Subsection (a)(2) or required revocation under Subsection (a)(3) must be effective for a period of at least two years. After two years, the program may seek renewed approval to prepare educators for state certification.

(d) The costs of technical assistance required under Subsection (a)(2)(A) or the costs associated with the appointment of a monitor under Subsection (a)(2)(C) shall be paid by the sponsor of the educator preparation program.

(Enacted by Acts 2009, 81st Leg., ch. 723 (S.B. 174), § 2, effective June 19, 2009.)

Sec. 21.0452. Consumer Information Regarding Educator Preparation Programs.

(a) To assist persons interested in obtaining teaching certification in selecting an educator preparation program and assist school districts in making staffing decisions, the board shall make information regarding educator programs in this state available to the public through the board's Internet website.

(b) The board shall make available at least the following information regarding each educator preparation program:

(1) the information specified in Sections 21.045(a) and (b);

(2) in addition to any other appropriate information indicating the quality of persons admitted to the program, the average academic qualifications possessed by persons admitted to the program, including:

(A) average overall grade point average and average grade point average in specific subject areas; and

(B) average scores on the Scholastic Assessment Test (SAT), the American College Test (ACT), or the Graduate Record Examination (GRE), as applicable;

(3) the degree to which persons who complete the program are successful in obtaining teaching positions;

(4) the extent to which the program prepares teachers, including general education teachers and special education teachers, to effectively teach:

(A) students with disabilities; and

(B) students of limited English proficiency, as defined by Section 29.052;

(5) the activities offered by the program that are designed to prepare teachers to:

(A) integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning; and

(B) use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement;

(6) the perseverance of beginning teachers in the profession, as determined on the basis of the number of beginning teachers who maintain status as active contributing members in the Teacher Retirement System of Texas for at least three years after certification in comparison to similar programs;

(7) the results of exit surveys given to program participants on completion of the program that involve evaluation of the program's effectiveness in preparing participants to succeed in the classroom; and

(8) the results of surveys given to school principals that involve evaluation of the program's effectiveness in preparing participants to succeed in the classroom, based on experience with employed program participants.

(c) For purposes of Subsection (b)(7), the board shall require an educator preparation program to distribute an exit survey that a program participant must complete before the participant is eligible to receive a certificate under this subchapter.

(d) For purposes of Subsections (b)(7) and (8), the board shall develop surveys for distribution to program participants and school principals.

(e) The board may develop procedures under which each educator preparation program receives a designation or ranking based on the information required to be made available under Subsection (b). If the board develops procedures under this subsection, the designation or ranking received by each program must be included in the information made available under this section.

(f) In addition to other information required to be made available under this section, the board shall provide information identifying employment opportunities for teachers in the various regions of this state. The board shall specifically identify each region of this state in which a shortage of qualified teachers exists.

(g) The board may require any person to provide information to the board for purposes of this section. (Enacted by Acts 2009, 81st Leg., ch. 723 (S.B. 174), § 2, effective June 19, 2009.)

Sec. 21.0453. Information for Candidates for Teacher Certification.

(a) The board shall require an educator preparation program to provide candidates for teacher certification with information concerning the following:

(1) skills and responsibilities required of teachers;

(2) expectations for student performance based on state standards;

(3) the current supply of and demand for teachers in this state;

(4) the importance of developing classroom management skills; and

(5) the state's framework for appraisal of teachers and principals.

(b) The board may propose rules as necessary for administration of this section, including rules to ensure that accurate and consistent information is provided by all educator preparation programs. (Enacted by Acts 2013, 83rd Leg., ch. 1292 (H.B. 2318), § 1, effective June 14, 2013.)

Sec. 21.046. Qualifications for Certification As Superintendent or Principal.

(a) The qualifications for superintendent must permit a candidate for certification to substitute management training or experience for part of the educational experience.

(b) The qualifications for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements. Supervised and approved on-the-job experience in addition to required internship shall be accepted in lieu of classroom hours. The qualifications must emphasize:

(1) instructional leadership;

(2) administration, supervision, and communication skills;

(3) curriculum and instruction management;

(4) performance evaluation;

(5) organization; and

(6) fiscal management.

(c) Because an effective principal is essential to school improvement, the board shall ensure that:

(1) each candidate for certification as a principal is of the highest caliber; and

(2) multi-level screening processes, validated comprehensive assessment programs, and flexible

internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success.

(d) In creating the qualifications for certification as a principal, the board shall consider the knowledge, skills, and proficiencies for principals as developed by relevant national organizations and the State Board of Education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.047. Centers for Professional Development of Teachers.

(a) The board may develop the process for the establishment of centers for professional development through institutions of higher education for the purpose of integrating technology and innovative teaching practices in the preservice and staff development training of public school teachers and administrators. An institution of higher education with a teacher education program may develop a center through a collaborative process involving public schools, regional education service centers, and other entities or businesses. A center may contract with other entities to develop materials and provide training.

(b) On application by a center, the board shall make grants to the center for its programs from funds derived from gifts, grants, and legislative appropriations for that purpose. The board shall award the grants on a competitive basis according to requirements established by the board rules.

(c) A center may develop and implement a comprehensive field-based educator preparation program to supplement the internship hours required in Section 21.050. This comprehensive field-based teacher program must:

(1) be designed on the basis of current research into state-of-the-art teaching practices, curriculum theory and application, evaluation of student outcomes, and the effective application of technology; and

(2) have rigorous internal and external evaluation procedures that focus on content, delivery systems, and teacher and student outcomes.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.048. Certification Examinations.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1282]** The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board. The board shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the board shall require a satisfactory level of examination performance in each core subject covered by the examination.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1292]** The board shall propose rules prescribing comprehensive examinations for each class of certificate issued by the board. The commissioner shall determine the satisfactory level of performance required for each certification examination. For the issuance of a generalist certificate, the commissioner shall require a satisfactory level of examination performance in each core subject covered by the examination.

(a-1) The board may not require that more than 45 days elapse before a person may retake an examination.

(b) The board may not administer a written examination to determine the competence or level of performance of an educator who has a hearing impairment unless the examination has been field tested to determine its appropriateness, reliability, and validity as applied to, and minimum acceptable performance scores for, persons with hearing impairments.

(c) An educator who has a hearing impairment is exempt from taking a written examination for a period ending on the first anniversary of the date on which the board determines, on the basis of appropriate field tests, that the examination complies with the standards specified in Subsection (b). On application to the board, the board shall issue a temporary exemption certificate to a person entitled to an exemption under this subsection.

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless:

(1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or

(2) the educator has failed the examination more than five times.

(d) In this section:

(1) "Hearing impairment" means a hearing impairment so severe that the person cannot process linguistic information with or without amplification.

(2) "Reliability" means the extent to which an experiment, test, or measuring procedure yields the same results on repeated trials.

(3) "Validity" means being:

(A) well-grounded or justifiable;

(B) relevant and meaningful;

(C) correctly derived from premises or inferences; and

(D) supported by objective truth or generally accepted authority.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 4, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 5, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1292 (H.B. 2318), § 2, effective June 14, 2013.)

Sec. 21.0481. Master Reading Teacher Certification.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student reading performance, the board shall establish a master reading teacher certificate.

(b) The board shall issue a master reading teacher certificate to each eligible person.

(c) To be eligible for a master reading teacher certificate, a person must:

(1) hold a reading specialist certificate issued under this subchapter and satisfactorily complete a course of instruction as prescribed under Subdivision (2)(B); or

(2) hold a teaching certificate issued under this subchapter and:

(A) have at least three years of teaching experience;

(B) satisfactorily complete a knowledge-based and skills-based course of instruction on the science of teaching children to read that includes training in:

(i) effective reading instruction techniques, including effective techniques for students whose primary language is a language other than English;

(ii) identification of dyslexia and related reading disorders and effective reading instruction techniques for students with those disorders; and

(iii) effective professional peer mentoring techniques;

(C) perform satisfactorily on the master reading teacher certification examination prescribed by the board; and

(D) satisfy any other requirements prescribed by the board.

(Enacted by Acts 1999, 76th Leg., ch. 931 (H.B. 2307), § 2, effective August 30, 1999.)

Sec. 21.0482. Master Mathematics Teacher Certification.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student mathematics performance, the board shall establish:

(1) a master mathematics teacher certificate to teach mathematics at elementary school grade levels;

(2) a master mathematics teacher certificate to teach mathematics at middle school grade levels; and

(3) a master mathematics teacher certificate to teach mathematics at high school grade levels.

(b) The board shall issue the appropriate master mathematics teacher certificate to each eligible person.

(c) To be eligible for a master mathematics teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of teaching experience;

(3) satisfactorily complete a knowledge-based course of instruction on the science of teaching children mathematics that includes training in mathematics instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master mathematics teacher certification examination prescribed by the board; and

(5) satisfy any other requirements prescribed by the board.

(d) The course of instruction prescribed under Subsection (c)(3) shall be developed by the board in consultation with mathematics and science faculty members at institutions of higher education.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 4, effective September 1, 2001.)

Sec. 21.0483. Master Technology Teacher Certification.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to increase the use of technology in each classroom, the board shall establish a master technology teacher certificate.

(b) The board shall issue a master technology teacher certificate to each eligible person.

(c) To be eligible for a master technology teacher certificate, a person must:

(1) hold a technology applications or Technology Education certificate issued under this subchapter, satisfactorily complete the course of instruction prescribed under Subdivision (2)(B), and satisfactorily perform on the examination prescribed under Subdivision (2)(C); or

(2) hold a teaching certificate issued under this subchapter and:

(A) have at least three years of teaching experience;

(B) satisfactorily complete a knowledge-based and skills-based course of instruction on interdisciplinary technology applications and the science of teaching technology that includes training in:

(i) effective technology instruction techniques, including applications designed to meet the educational needs of students with disabilities;

(ii) classroom teaching methodology that engages student learning through the integration of technology;

(iii) digital learning competencies, including Internet research, graphics, animation, website mastering, and video technologies;

(iv) curriculum models designed to prepare teachers to facilitate an active student learning environment; and

(v) effective professional peer mentoring techniques;

(C) satisfactorily perform on an examination administered at the conclusion of the course of instruction prescribed under Paragraph (B); and

(D) satisfy any other requirements prescribed by the board.

(d) The board may provide technology applications training courses under Subsection (c)(2)(B) in cooperation with:

(1) regional education service centers; and

(2) other public or private entities, including any state council on technology.

(Enacted by Acts 2001, 77th Leg., ch. 1301 (H.B. 1475), § 2, effective June 16, 2001; Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(12), effective September 1, 2003 (renumbered from Sec. 21.0482); am. Acts 2007, 80th Leg., ch. 831 (H.B. 735), § 2, effective September 1, 2008.)

Sec. 21.0484. Master Science Teacher Certification.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student science performance, the board shall establish:

(1) a master science teacher certificate to teach science at elementary school grade levels;

(2) a master science teacher certificate to teach science at middle school grade levels; and

(3) a master science teacher certificate to teach science at high school grade levels.

(b) The board shall issue the appropriate master science teacher certificate to each eligible person.

(c) To be eligible for a master science teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of teaching experience;

(3) satisfactorily complete a knowledge-based course of instruction on the science of teaching children science that includes training in science instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master science teacher certification examination prescribed by the board; and

(5) satisfy any other requirements prescribed by the board.

(d) The course of instruction prescribed under Subsection (c)(3) shall be developed by the board in consultation with science faculty members at institutions of higher education.

(Enacted by Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 1, effective September 1, 2003.)

Sec. 21.0485. Certification to Teach Students with Visual Impairments.

(a) To be eligible to be issued a certificate to teach students with visual impairments, a person must:

(1) complete either:

(A) all course work required for that certification in an approved educator preparation program; or

(B) an alternative educator certification program approved for the purpose by the board;

(2) perform satisfactorily on each examination prescribed under Section 21.048 for certification to teach students with visual impairments, after completing the course work or program described by Subdivision (1); and

(3) satisfy any other requirements prescribed by the board.

(b) Subsection (a) does not apply to eligibility for a certificate to teach students with visual impairments, including eligibility for renewal of that certificate, if the application for the initial certificate was submitted on or before September 1, 2011.

(Enacted by Acts 2011, 82nd Leg., ch. 362 (S.B. 54), § 1, effective September 1, 2011.)

Sec. 21.0486. Technology Applications Certification.

A person who holds a technology applications certificate issued under this subchapter may, in addition to teaching technology applications courses as authorized under the certificate, teach courses in:

(1) principles of arts, audio/video technology, and communications; and

(2) principles of information technology.

(Enacted by Acts 2013, 83rd Leg., ch. 1091 (H.B. 3573), § 2, effective June 14, 2013.)

Sec. 21.049. Alternative Certification.

(a) To provide a continuing additional source of qualified educators, the board shall propose rules providing for educator certification programs as an alternative to traditional educator preparation programs. The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of educators in a school district or subject area.

(b) The board may not require a person employed as a teacher in an alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011 for at least three years to complete an alternative educator certification program adopted under this section before taking the appropriate certification examination.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 609 (S.B. 998), § 1, effective September 1, 2001.)

Sec. 21.050. Academic Degree Required for Teaching Certificate; Internship.

(a) A person who applies for a teaching certificate for which board rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under Subchapter A, Chapter 28.

(b) The board may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. The board shall provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The board may propose rules requiring additional credit hours for certification in bilingual education, English as a second language, early childhood education, or special education.

(c) A person who receives a bachelor's degree required for a teaching certificate on the basis of higher education coursework completed while receiving an exemption from tuition and fees under Section 54.363 may not be required to participate in any field experience or internship consisting of student teaching to receive a teaching certificate.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 524 (H.B. 571), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 74 (H.B. 1130), § 2, effective May 14, 2001; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 2, effective January 1, 2012.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Sec. 21.051. Rules Regarding Field-Based Experience and Options for Field Experience and Internships.

(a) In this section, "teacher of record" means a person employed by a school district who teaches the majority of the instructional day in an academic instructional setting and is responsible for evaluating student achievement and assigning grades.

(b) Before a school district may employ a candidate for certification as a teacher of record, the candidate must complete at least 15 hours of field-based experience in which the candidate is actively engaged in instructional or educational activities under supervision at:

(1) a public school campus accredited or approved for the purpose by the agency; or

(2) a private school recognized or approved for the purpose by the agency.

(c) Subsection (b) applies only to an initial certification issued on or after September 1, 2012. Subsection (b) does not affect:

(1) the validity of a certification issued before September 1, 2012; or

(2) the eligibility of a person who holds a certification issued before September 1, 2012, to obtain a subsequent renewal of the certification in accordance with board rule.

(d) Subsection (b) does not affect the period within which an individual must complete field-based experience hours as determined by board rule if the individual is not accepted into an educator preparation program before the deadline prescribed by board rule and is hired for a teaching assignment by a school district after the deadline prescribed by board rule.

(e) The board shall propose rules relating to the field-based experience required by Subsection (b). The commissioner by rule shall adopt procedures and standards for recognizing a private school under Subsection (b)(2).

(f) The board shall propose rules providing flexible options for persons for any field-based experience or internship required for certification.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 2, effective September 28, 2011.)

Sec. 21.052. Certification of Educators from Outside the State.

(a) The board may issue a certificate to an educator who applies for a certificate and:

(1) holds:

(A) a degree issued by an institution accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; or

(B) a degree issued by an institution located in a foreign country, if the degree is equivalent to a degree described by Paragraph (A);

(2) holds an appropriate certificate or other credential issued by another state or country; and

(3) performs satisfactorily on:

(A) the examination prescribed under Section 21.048; or

(B) if the educator holds a certificate or other credential issued by another state or country, an examination similar to and at least as rigorous as that described by Paragraph (A) administered to the educator under the authority of that state.

(b) For purposes of Subsection (a)(2), a person is considered to hold a certificate or other credential if the credential is not valid solely because it has expired.

(c) The board may issue a temporary certificate under this section to an educator who holds a degree required by Subsection (a)(1) and a certificate or other credential required by Subsection (a)(2) but who has not satisfied the requirements prescribed by Subsection (a)(3). Subject to Subsection (d), the board may specify the term of a temporary certificate issued under this subsection.

(d) A temporary certificate issued under Subsection (c) to an educator employed by a school district that has constructed or expanded at least one instructional facility as a result of increased student enrollment due to actions taken under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687) may not expire before the first anniversary of the date on which the board completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform successfully to receive a standard certificate.

(e) An educator who has submitted all documents required by the board for certification and who receives a certificate as provided by Subsection (a) must perform satisfactorily on the examination prescribed under Section 21.048 not later than the first anniversary of the date the board completes the review of the educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform successfully to receive a standard certificate.

(f) The board shall post on the board's Internet website the procedures for obtaining a certificate under Subsection (a).

(g) The commissioner shall provide guidance to school districts that employ an educator certified as provided by Subsection (a) on procedures to classify the educator as a highly qualified teacher in a manner consistent with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.).

(h) This subsection applies only to an applicant who holds a certificate or other credential issued by another state in mathematics, science, special education, or bilingual education, or another subject area that the commissioner determines has a shortage of teachers. In any state fiscal year, the board shall accept or reject, not later than the 14th day after the date the board receives the completed application, at least 90 percent of the applications the board receives for a certificate under this subsection, and shall accept or reject all completed applications the board receives under this subsection not later than the 30th day after the date the board receives the completed application. An applicant under this subsection must submit:

(1) a letter of good standing from the state in which the teacher is certified on a form determined by the board;

(2) information necessary to complete a national criminal history record information review; and

(3) an application fee as required by the board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1306 (H.B. 1721), § 1, effective June 16, 2001; am. Acts 2007, 80th Leg., ch. 577 (S.B. 1912), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1013 (H.B. 4152), § 1, effective June 19, 2009.)

Sec. 21.053. Presentation and Recording of Certificates.

(a) A person who desires to teach in a public school shall present the person's certificate for filing with the employing district before the person's contract with the board of trustees of the district is binding.

(b) An educator who does not hold a valid certificate may not be paid for teaching or work done

before the effective date of issuance of a valid certificate.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.054. Continuing Education.

(a) The board shall propose rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.

(b) Continuing education requirements for an educator who teaches students with dyslexia must include training regarding new research and practices in educating students with dyslexia.

(c) The training required under Subsection (b) may be offered in an online course.

(d) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 638]** Continuing education requirements for a classroom teacher must provide that not more than 25 percent of the training required every five years include instruction regarding:

(1) collecting and analyzing information that will improve effectiveness in the classroom;

(2) recognizing early warning indicators that a student may be at risk of dropping out of school;

(3) integrating technology into classroom instruction; and

(4) educating diverse student populations, including:

(A) students with disabilities, including mental health disorders;

(B) students who are educationally disadvantaged;

(C) students of limited English proficiency; and

(D) students at risk of dropping out of school.

(d) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1306]** The board shall adopt rules that allow an educator to fulfill up to 12 hours of continuing education by participating in a mental health first aid training program offered by a local mental health authority under Section 1001.203, Health and Safety Code. The number of hours of continuing education an educator may fulfill under this subsection may not exceed the number of hours the educator actually spends participating in a mental health first aid training program.

(e) Continuing education requirements for a principal must provide that not more than 25 percent of the training required every five years include instruction regarding:

(1) effective and efficient management, including:

(A) collecting and analyzing information;

(B) making decisions and managing time; and

(C) supervising student discipline and managing behavior;

(2) recognizing early warning indicators that a student may be at risk of dropping out of school;

(3) integrating technology into campus curriculum and instruction; and

(4) educating diverse student populations, including:

(A) students with disabilities, including mental health disorders;

(B) students who are educationally disadvantaged;

(C) students of limited English proficiency; and

(D) students at risk of dropping out of school.

(f) Continuing education requirements for a counselor must provide that not more than 25 percent of training required every five years include instruction regarding:

(1) assisting students in developing high school graduation plans;

(2) implementing dropout prevention strategies; and

(3) informing students concerning:

(A) college admissions, including college financial aid resources and application procedures; and

(B) career opportunities.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 675 (S.B. 143), § 2, effective June 17, 2005; am. Acts 2009, 81st Leg., ch. 596 (H.B. 200), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 67 (a), effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 638 (H.B. 642), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1306 (H.B. 3793), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 596 (H.B. 200), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 6(a) provides: "Except as provided by Subsections (b) and (c) of this section, this Act applies beginning with the 2011-2012 school year."

Acts 2013, 83rd Leg., ch. 638 (H.B. 642), § 4 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.055. School District Teaching Permit.

(a) As provided by this section, a school district may issue a school district teaching permit and employ as a teacher a person who does not hold a teaching certificate issued by the board.

(b) To be eligible for a school district teaching permit under this section, a person must hold a

baccalaureate degree. This subsection does not apply to a person who will teach only career and technology education.

(c) Promptly after employing a person under this section, a school district shall send to the commissioner a written statement identifying the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the commissioner.

(d) Not later than the 30th day after the date the commissioner receives the statement under Subsection (c), the commissioner may inform the district in writing that the commissioner finds the person is not qualified to teach. The person may not teach if the commissioner finds the person is not qualified. If the commissioner fails to act within the time prescribed by this subsection, the district may issue to the person a school district teaching permit and the person may teach the subject or class identified in the statement.

(e) A person authorized to teach under this section may not teach in another school district unless that district complies with this section. A school district teaching permit remains valid unless the district issuing the permit revokes it for cause.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.056. Additional Certification.

The board by rule shall provide for a certified educator to qualify for additional certification to teach at a grade level or in a subject area not covered by the educator's certificate upon satisfactory completion of an examination or other assessment of the educator's qualification.

(Enacted by Acts 1997, 75th Leg., ch. 1356 (H.B. 623), § 1, effective September 1, 1997.)

Sec. 21.057. Parental Notification.

(a) A school district that assigns an inappropriately certified or uncertified teacher to the same classroom for more than 30 consecutive instructional days during the same school year shall provide written notice of the assignment to a parent or guardian of each student in that classroom.

(b) The superintendent of the school district shall provide the notice required by Subsection (a) not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher.

(c) The school district shall:

(1) make a good-faith effort to ensure that the notice required by this section is provided in a bilingual form to any parent or guardian whose primary language is not English;

(2) retain a copy of any notice provided under this section; and

(3) make information relating to teacher certification available to the public on request.

(d) For purposes of this section, "inappropriately certified or uncertified teacher":

(1) includes:

(A) an individual serving on an emergency certificate issued under Section 21.041(b)(2); or

(B) an individual who does not hold any certificate or permit issued under this chapter and is not employed as specified by Subdivision (2)(E); and

(2) does not include an individual:

(A) who is a certified teacher assigned to teach a class or classes outside his or her area of certification, as determined by rules proposed by the board in specifying the certificate required for each assignment;

(B) serving on a certificate issued due to a hearing impairment under Section 21.048;

(C) serving on a certificate issued pursuant to enrollment in an approved alternative certification program under Section 21.049;

(D) certified by another state or country and serving on a certificate issued under Section 21.052;

(E) serving on a school district teaching permit issued under Section 21.055; or

(F) employed under a waiver granted by the commissioner pursuant to Section 7.056.

(e) This section does not apply if a school is required in accordance with Section 1111(h)(6)(B)(ii), No Child Left Behind Act of 2001 (20 U.S.C. Section 6311), and its subsequent amendments, to provide notice to a parent or guardian regarding a teacher who is not highly qualified, provided the school provides notice as required by that Act.

(Enacted by Acts 1999, 76th Leg., ch. 680 (H.B. 618), § 1, effective June 18, 1999; am. Acts 2003, 78th Leg., ch. 1027, effective June 20, 2003.)

Sec. 21.058. Revocation of Certificate and Termination of Employment Based on Conviction of Certain Offenses.

(a) The procedures described by Subsections (b) and (c) apply only:

(1) to conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) if the victim of the offense is under 18 years of age.

(b) Notwithstanding Section 21.041(b)(7), not later than the fifth day after the date the board receives notice under Article 42.018, Code of Criminal Procedure, of the conviction of a person who holds a certificate under this subchapter, the board shall:

(1) revoke the certificate held by the person; and

(2) provide to the person and to any school district or open-enrollment charter school employing the person at the time of revocation written notice of:

(A) the revocation; and

(B) the basis for the revocation.

(c) A school district or open-enrollment charter school that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter shall:

(1) immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

(2) if the person is employed under a probationary, continuing, or term contract under this chapter:

(A) suspend the person without pay;

(B) provide the person with written notice that the person's contract is void as provided by Subsection (c-2); and

(C) terminate the employment of the person as soon as practicable.

(c-1) If a school district or open-enrollment charter school becomes aware that a person employed by the district or school under a probationary, continuing, or term contract under this chapter has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to Subsection (c), the district or school may:

(1) suspend the person without pay;

(2) provide the person with written notice that the person's contract is void as provided by Subsection (c-2); and

(3) terminate the employment of the person as soon as practicable.

(c-2) A person's probationary, continuing, or term contract is void if the school district or open-enrollment charter school takes action under Subsection (c)(2)(B) or (c-1)(2).

(d) A person whose certificate is revoked under Subsection (b) may reapply for a certificate in accordance with board rules.

(e) Action taken by a school district or open-enrollment charter school under Subsection (c) or (c-1) is not subject to appeal under this chapter, and the notice and hearing requirements of this chapter do not apply to the action.

(Enacted by Acts 2003, 78th Leg., ch. 920 (S.B. 1109), § 1, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 6 provides: " This Act applies beginning with the 2011-2012 school year."

Sec. 21.059. Extension of Certain Deadlines for Active Duty Military Personnel.

A person who holds a certificate or permit under this subchapter who is a member of the state military forces or a reserve component of the armed forces of the United States and who is ordered to active duty by proper authority is entitled to an additional amount of time, equal to the total number of years or parts of years that the educator serves on active duty, to complete:

(1) any continuing education requirements; and

(2) any requirements relating to renewal or extension of the person's certificate or permit.

(Enacted by Acts 2005, 79th Leg., ch. 675 (S.B. 143), § 3, effective June 17, 2005.)

Sec. 21.060. Eligibility of Persons Convicted of Certain Offenses.

The board may suspend or revoke the certificate or permit held by a person under this subchapter, impose other sanctions against the person, or refuse to issue a certificate or permit to a person under this subchapter if the person has been convicted of a felony or misdemeanor offense relating to the duties and responsibilities of the education profession, including:

(1) an offense involving moral turpitude;

(2) an offense involving a form of sexual or physical abuse of a minor or student or other illegal conduct in which the victim is a minor or student;

(3) a felony offense involving the possession, transfer, sale, or distribution of or conspiracy to possess, transfer, sell, or distribute a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(4) an offense involving the illegal transfer, appropriation, or use of school district funds or other district property; or

(5) an offense involving an attempt by fraudulent or unauthorized means to obtain or alter a professional certificate or license issued under this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 5, effective June 15, 2007.)

Sec. 21.061. Review and Updating of Educator Preparation Programs.

The board shall, after consulting with appropriate higher education faculty and public school teachers and administrators and soliciting advice from other interested persons with relevant knowledge and experience, develop and carry out a process for reviewing and, as necessary, updating standards and requirements for educator preparation programs.

(Enacted by Acts 2013, 83rd Leg., ch. 1292 (H.B. 2318), § 3, effective June 14, 2013.)

SUBCHAPTER C
PROBATIONARY CONTRACTS

Sec. 21.101. Definition.

In this subchapter, "teacher" means a principal, supervisor, classroom teacher, school counselor, or other full-time professional employee who is required to hold a certificate issued under Subchapter B or a nurse. The term does not include a superintendent or a person who is not entitled to a probationary, continuing, or term contract under Section 21.002, an existing contract, or district policy.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 9, effective June 14, 2013.)

Sec. 21.102. Probationary Contract.

(a) Except as provided by Section 21.202(b), a person who is employed as a teacher by a school district for the first time, or who has not been employed by the district for two consecutive school years subsequent to August 28, 1967, shall be employed under a probationary contract. A person who previously was employed as a teacher by a district and, after at least a two-year lapse in district employment returns to district employment, may be employed under a probationary contract.

(a-1) A person who voluntarily accepts an assignment in a new professional capacity that requires a different class of certificate under Subchapter B than the class of certificate held by the person in the professional capacity in which the person was previously employed may be employed under a probationary contract. This subsection does not apply to a person who is returned by a school district to a professional capacity in which the person was employed by the district before the district employed the person in the new professional capacity as described by this subsection. A person described by this subsection who is returned to a previous professional capacity is entitled to be employed in the original professional capacity under the same contractual status as the status held by the person during the previous employment by the district in that capacity.

(b) A probationary contract may not be for a term exceeding one school year. The probationary contract may be renewed for two additional one-year periods, for a maximum permissible probationary contract period of three school years, except that the probationary period may not exceed one year for a person who has been employed as a teacher in public education for at least five of the eight years preceding employment by the district.

(c) An employment contract may not extend the probationary contract period beyond the end of the third consecutive school year of the teacher's employment by the school district unless, during the third year of a teacher's probationary contract, the board of trustees determines that it is doubtful whether the teacher should be given a continuing contract or a term contract. If the board makes that determination, the district may make a probationary contract with the teacher for a term ending with the fourth consecutive school year of the teacher's employment with the district, at which time the district shall:

(1) terminate the employment of the teacher; or

(2) employ the teacher under a continuing contract or a term contract as provided by Subchapter D or E, according to district policy.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 1009 (S.B. 964), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 440 (H.B. 558), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1232 (S.B. 1394), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 5, § 5.002, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1010 (H.B. 2380), § 1, effective June 17, 2011.)

Sec. 21.103. Probationary Contract: Termination.

(a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its decision to terminate the employment to the teacher not later than the 10th day before the last day of instruction required under the contract. The notice must be delivered personally by hand delivery to the teacher on the campus at which the

teacher is employed, except that if the teacher is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the teacher's address of record with the district. Notice that is postmarked on or before the 10th day before the last day of instruction is considered timely given under this subsection. The board's decision is final and may not be appealed.

(b) If the board of trustees fails to give the notice of its decision to terminate the teacher's employment within the time prescribed by Subsection (a), the board must employ the probationary teacher in the same capacity under:

(1) a probationary contract for the following school year, if the teacher has been employed by the district under a probationary contract for less than three consecutive school years; or

(2) a continuing or term contract, according to district policy, if the teacher has been employed by the district under a probationary contract for three consecutive school years.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.05, effective September 1, 1999; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 3, effective September 28, 2011.)

Sec. 21.104. Discharge During Year or Suspension Without Pay Under Probationary Contract.

(a) A teacher employed under a probationary contract may be discharged at any time for good cause as determined by the board of trustees, good cause being the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state.

(b) In lieu of discharge or pending discharge, a school district may suspend a teacher without pay for good cause as specified by Subsection (a) for a period not to extend beyond the end of the current school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 4, effective September 28, 2011.)

Sec. 21.1041. Hearing Under Probationary Contract.

A teacher is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.104; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board of trustees of the district, if the teacher is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 5, effective September 28, 2011.)

Sec. 21.105. Resignations Under Probationary Contract.

(a) A teacher employed under a probationary contract for the following school year may relinquish the position and leave the employment of the district at the end of a school year without penalty by filing with the board of trustees or its designee a written resignation not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at the time of mailing.

(b) A teacher employed under a probationary contract may resign, with the consent of the board of trustees or the board's designee, at any other time.

(c) On written complaint by the employing district, the State Board for Educator Certification may impose sanctions against a teacher employed under a probationary contract who:

(1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.106. Return to Probationary Status.

(a) In lieu of discharging a teacher employed under a continuing contract, terminating a teacher employed under a term contract, or not renewing a teacher's term contract, a school district may, with the written consent of the teacher, return the teacher to probationary contract status.

(b) Except as provided by Subsection (d), a teacher may agree to be returned to probationary contract status only after receiving written notice that the board of trustees of the school district has proposed discharge, termination, or nonrenewal.

(c) A teacher returned to probationary contract status must serve a new probationary contract period as provided by Section 21.102 as if the teacher were employed by the district for the first time.

(d) A teacher may agree to be returned to probationary contract status after receiving written notice of the superintendent's intent to recommend discharge, termination, or nonrenewal. Notice under this subsection must inform the teacher of the school district's offer to return the teacher to probationary contract status, the period during which the teacher may consider the offer, and the teacher's right to seek counsel. The district must provide the teacher at least three business days after the date the teacher receives notice under this subsection to agree to be returned to probationary contract status. This subsection does not require a superintendent to provide notice of an intent to recommend discharge, termination, or nonrenewal.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 507 (H.B. 1113), § 1, effective September 1, 2003.)

SUBCHAPTER D
CONTINUING CONTRACTS

Sec. 21.151. Definition.

In this subchapter, "teacher" has the meaning assigned by Section 21.101.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.152. Continuing Contract.

A continuing contract must be in writing and must include the terms of employment prescribed by this subchapter and any other appropriate provisions consistent with this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.153. Conversion of Probationary Contract to Continuing Contract.

(a) A school district that employs a teacher under a probationary contract for the third or, if permitted, fourth consecutive year of service and that elects to employ the teacher in future years under a continuing contract shall notify the teacher in writing of the teacher's election to continuing contract status. The teacher must, not later than the 30th day after the date of notification, file with the superintendent of the school district written notification of the teacher's acceptance of the continuing contract, beginning with the school year following the conclusion of the teacher's period of probationary contract employment.

(b) If the teacher fails to accept the contract within the period prescribed by Subsection (a), the teacher is considered to have refused to accept the contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.154. Status Under Continuing Contract.

Each teacher employed under a continuing contract is entitled to continue in the teacher's position or a position with the school district for future school years without the necessity for annual nomination or reappointment until the person:

(1) resigns;

(2) retires under the Teacher Retirement System of Texas;

(3) is released from employment by the school district at the end of a school year because of necessary reduction of personnel as provided by Section 21.157;

(4) is discharged for good cause as defined by Section 21.156 and in accordance with the procedures provided by this chapter;

(5) is discharged for a reason stated in the teacher's contract that existed on or before September 1, 1995, and in accordance with the procedures prescribed by this chapter; or

(6) is returned to probationary status, as authorized by Section 21.106.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.155. Administrative Personnel Under Continuing Contract.

The district may grant to a person who has served as principal or in another administrative position for which certification is required, at the completion of the person's service in that capacity, a continuing contract to serve as a teacher if the person qualifies for that position under criteria adopted by the board of trustees. The period of service in an administrative capacity is construed as contract service as a teacher within the meaning of this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.156. Discharge or Suspension Without Pay Under Continuing Contract.

(a) A teacher employed under a continuing contract may be discharged at any time for good cause as determined by the board of trustees, good cause being the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state.

(b) In lieu of discharge or pending discharge, a school district may suspend a teacher without pay

for good cause as specified by Subsection (a) for a period not to extend beyond the end of the current school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 6, effective September 28, 2011.)

Sec. 21.157. Necessary Reduction of Personnel.

A teacher employed under a continuing contract may be released at the end of a school year and the teacher's employment with the school district terminated at that time because of a necessary reduction of personnel by the school district, with those reductions made primarily based upon teacher appraisals administered under Section 21.352 in the specific teaching fields and other criteria as determined by the board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 7, effective September 28, 2011.)

Sec. 21.158. Notice Under Continuing Contract.

(a) Before a teacher employed under a continuing contract may be discharged, suspended without pay, or released because of a necessary reduction of personnel, the board of trustees must notify the teacher in writing of the proposed action and the grounds for the action.

(b) A teacher who is discharged or suspended without pay for actions related to the inability or failure of the teacher to perform assigned duties is entitled, as a matter of right, to a copy of each evaluation report or any other written memorandum that concerns the fitness or conduct of the teacher, by requesting in writing a copy of those documents.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.159. Hearing Under Continuing Contract.

(a) If the teacher desires to protest the proposed action under Section 21.156 or 21.157, the teacher must notify the board of trustees in writing not later than the 10th day after the date the teacher receives the notice under Section 21.158.

(b) A teacher who notifies the board of trustees within the time prescribed by Subsection (a) is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.156; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board, if the teacher is protesting proposed action under Section 21.157 or proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel.

(c) If the teacher does not request a hearing within the time prescribed by Subsection (a), the board of trustees shall:

(1) take the appropriate action; and

(2) notify the teacher in writing of the action not later than the 30th day after the date the board sent the notice of the proposed action under Section 21.158.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 8, effective September 28, 2011.)

Sec. 21.160. Resignation Under Continuing Contract.

(a) A teacher employed under a continuing contract may relinquish the position and leave the employment of the district at the end of a school year without penalty by filing with the board of trustees or its designee a written resignation not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at time of mailing.

(b) A teacher employed under a continuing contract may resign, with the consent of the board of trustees or the board's designee, at any other time.

(c) On written complaint by the employing district, the State Board for Educator Certification may impose sanctions against a teacher who is employed under a continuing contract that obligates the district to employ the person for the following school year and who:

(1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER E
TERM CONTRACTS

Sec. 21.201. Definitions.

In this subchapter:

(1) "Teacher" means a superintendent, principal, supervisor, classroom teacher, school counselor, or other full-time professional employee who is required to hold a certificate issued under Subchapter B or a nurse. The term does not include a person who is not entitled to a probationary, continuing, or term contract under Section 21.002, an existing contract, or district policy.

(2) "School district" means any public school district in this state.

(3) "Term contract" means any contract of employment for a fixed term between a school district and a teacher.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 10, effective June 14, 2013.)

Sec. 21.202. Probationary Contract Required.

(a) Except as provided by Subsection (b), before a teacher may be employed under a term contract, the teacher must be employed under a probationary contract for the period provided by Subchapter C.

(b) A school district may employ a person as a principal or classroom teacher under a term contract if the person has experience as a public school principal or classroom teacher, respectively, regardless of whether the person is being employed by the school district for the first time or whether a probationary contract would otherwise be required under Section 21.102.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1232 (S.B. 1394), § 2, effective September 1, 2003.)

Sec. 21.203. Employment Policies.

(a) Except as provided by Section 21.352(c), the employment policies adopted by a board of trustees must require a written evaluation of each teacher at annual or more frequent intervals. The board must consider the most recent evaluations before making a decision not to renew a teacher's contract if the evaluations are relevant to the reason for the board's action.

(b) The employment policies must include reasons for not renewing a teacher's contract at the end of a school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 244 (H.B. 1440), § 1, effective June 18, 2003.)

Sec. 21.204. Term Contract.

(a) A term contract must be in writing and must include the terms of employment prescribed by this subchapter.

(b) The board of trustees may include in the contract other provisions that are consistent with this subchapter.

(c) Each contract under this subchapter is subject to approval by the board of trustees.

(d) The board of trustees shall provide each teacher with a copy of the teacher's contract with the school district and, on the teacher's request, a copy of the board's employment policies. If the district has an Internet website, the district shall place the board's employment policies on that website. At each school in the district, the board shall make a copy of the board's employment policies available for inspection at a reasonable time on request.

(e) A teacher does not have a property interest in a contract beyond its term.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 484 (H.B. 912), § 1, effective September 1, 2003.)

Sec. 21.205. Term of Contract.

Once a teacher has completed the probationary contract period, the term of a contract under this subchapter may not exceed five school years.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.206. Notice of Contract Renewal or Nonrenewal.

(a) Not later than the 10th day before the last day of instruction in a school year, the board of trustees shall notify in writing each teacher whose contract is about to expire whether the board proposes to renew or not renew the contract. The notice must be delivered personally by hand delivery to the teacher on the campus at which the teacher is employed, except that if the teacher is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the teacher's address of record with the district. Notice that is postmarked on or before the 10th day before the last day of instruction is considered timely given under this subsection.

(b) The board's failure to give the notice required by Subsection (a) within the time specified constitutes an election to employ the teacher in the same professional capacity for the following school year.

(c) This section does not apply to a term contract with a superintendent.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd

Leg., 1st C.S., ch. 8 (S.B. 8), § 9, effective September 28, 2011.)

Sec. 21.207. Hearing Under Term Contract.

(a) If the teacher desires a hearing after receiving notice of the proposed nonrenewal, the teacher shall notify the board of trustees in writing not later than the 15th day after the date the teacher receives hand delivery of the notice of the proposed action, or if the notice is mailed by prepaid certified mail or delivered by express delivery service, not later than the 15th day after the date the notice is delivered to the teacher's address of record with the district. The board shall provide for a hearing to be held not later than the 15th day after the date the board receives the request for a hearing unless the parties agree in writing to a different date. The hearing must be closed unless the teacher requests an open hearing.

(b) The hearing must be conducted in accordance with rules adopted by the board. The board may use the process established under Subchapter F.

(b-1) Notwithstanding any other provision of this code, this subsection applies only to a school district with an enrollment of at least 5,000 students. The board of trustees may designate an attorney licensed to practice law in this state to hold the hearing on behalf of the board, to create a hearing record for the board's consideration and action, and to recommend an action to the board. The attorney serving as the board's designee may not be employed by a school district and neither the designee nor a law firm with which the designee is associated may be serving as an agent or representative of a school district, of a teacher in a dispute between a district and a teacher, or of an organization of school employees, school administrators, or school boards of trustees. Not later than the 15th day after the completion of the hearing under this subsection, the board's designee shall provide to the board a record of the hearing and the designee's recommendation of whether the contract should be renewed or not renewed. The board shall consider the record of the hearing and the designee's recommendation at the first board meeting for which notice can be posted in compliance with Chapter 551, Government Code, following the receipt of the record and recommendation from the board's designee, unless the parties agree in writing to a different date. At the meeting, the board shall consider the hearing record and the designee's recommendation and allow each party to present an oral argument to the board. The board by written policy may limit the amount of time for oral argument. The policy must provide equal time for each party. The board may obtain advice concerning legal matters from an attorney who has not been involved in the proceedings. The board may accept, reject, or modify the designee's recommendation. The board shall notify the teacher in writing of the board's decision not later than the 15th day after the date of the meeting.

(c) At the hearing before the board or the board's designee, the teacher may:

(1) be represented by a representative of the teacher's choice;

(2) hear the evidence supporting the reason for nonrenewal;

(3) cross-examine adverse witnesses; and

(4) present evidence.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 10, effective September 28, 2011.)

Sec. 21.208. Decision of Board.

(a) If the teacher does not request a hearing, the board of trustees shall:

(1) take the appropriate action to renew or not renew the teacher's contract; and

(2) notify the teacher in writing of that action not later than the 30th day after the date the notice of proposed nonrenewal was sent to the teacher.

(b) If the teacher requests a hearing, following the hearing the board of trustees shall:

(1) take the appropriate action to renew or not renew the teacher's contract; and

(2) notify the teacher in writing of that action not later than the 15th day after the date on which the hearing is concluded.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.209. Appeal.

A teacher who is aggrieved by a decision of a board of trustees on the nonrenewal of the teacher's term contract may appeal to the commissioner for a review of the decision of the board of trustees in accordance with the provisions of Subchapter G. The commissioner may not substitute the commissioner's judgment for that of the board of trustees unless the board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.210. Resignation Under Term Contract.

(a) A teacher employed under a term contract with a school district may relinquish the teaching position and leave the employment of the district at

the end of a school year without penalty by filing a written resignation with the board of trustees or the board's designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the board of trustees or the board's designee at the post office address of the district is considered filed at the time of mailing.

(b) A teacher employed under a term contract may resign, with the consent of the board of trustees or the board's designee, at any other time.

(c) On written complaint by the employing district, the State Board for Educator Certification may impose sanctions against a teacher who is employed under a term contract that obligates the district to employ the person for the following school year and who:

(1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.211. Termination or Suspension.

(a) The board of trustees may terminate a term contract and discharge a teacher at any time for:

(1) good cause as determined by the board; or

(2) a financial exigency that requires a reduction in personnel.

(b) For a good cause, as determined by the board, the board of trustees may suspend a teacher without pay for a period not to extend beyond the end of the school year:

(1) pending discharge of the teacher; or

(2) in lieu of terminating the teacher.

(c) A teacher who is not discharged after being suspended without pay pending discharge is entitled to back pay for the period of suspension.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.212. Applicability of Subchapter to Superintendents.

(a) The board of trustees of a school district may choose to not renew the employment of a superintendent employed under a term contract, effective at the end of the contract period. If a majority of the board of trustees determines that the term contract of the superintendent should be considered for nonrenewal, the board shall give the superintendent written notice, containing reasonable notice of the reason for the proposed nonrenewal, not later than the 30th day before the last day of the contract term.

(b) If the board of trustees fails to give notice of the proposed nonrenewal within the time specified by Subsection (a), the board of trustees shall employ the superintendent in the same professional capacity for the following school year.

(c) If the superintendent, not later than the 15th day after receiving notice of the board's proposed action, does not request a hearing with the board of trustees under Section 21.207, the board of trustees shall:

(1) take the appropriate action; and

(2) notify the superintendent in writing of the action not later than the 30th day after the date the board sends the notice of the proposed nonrenewal.

(d) The board of trustees shall adopt policies that establish reasons for nonrenewal. This section does not prohibit a board of trustees from discharging a superintendent for good cause during the term of a contract.

(e) A superintendent employed under a term contract may leave the employment of the district at the end of a school year without penalty by filing a written resignation with the board of trustees. The resignation must be addressed to the board and filed not later than the 45th day before the first day of instruction of the following school year. A superintendent may resign, with the consent of the board of trustees, at any other time.

(f) On the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel, the board of trustees of a school district may choose to amend the terms of the contract of a superintendent employed under a term contract. A superintendent whose contract is amended under this subsection may resign without penalty by providing reasonable notice to the board and may continue employment for that notice period under the prior contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 11, effective September 28, 2011.)

Sec. 21.213. Nonapplicability of Subchapter.

Except as provided by Section 21.202, this subchapter does not apply to a teacher employed under a probationary contract in accordance with Subchapter C or a continuing contract in accordance with Subchapter D.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER F
HEARINGS BEFORE HEARING EXAMINERS

Sec. 21.251. Applicability.

(a) This subchapter applies if a teacher requests a hearing after receiving notice of the proposed decision to:

(1) terminate the teacher's continuing contract at any time, except as provided by Subsection (b)(3);

(2) terminate the teacher's probationary or term contract before the end of the contract period, except as provided by Subsection (b)(3); or

(3) suspend the teacher without pay.

(b) This subchapter does not apply to:

(1) a decision to terminate a teacher's employment at the end of a probationary contract;

(2) a decision not to renew a teacher's term contract, unless the board of trustees of the employing district has decided to use the process prescribed by this subchapter for that purpose; or

(3) a decision, on the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel, to terminate a probationary or term contract before the end of the contract period or to terminate a continuing contract at any time, unless the board of trustees has decided to use the process prescribed by this subchapter for that purpose.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 12, effective September 28, 2011.)

Sec. 21.252. Certification of Hearing Examiners.

(a) The State Board of Education, in consultation with the State Office of Administrative Hearings, by rule shall establish criteria for the certification of hearing examiners eligible to conduct hearings under this subchapter. A hearing examiner certified under this subchapter must be licensed to practice law in this state.

(b) The commissioner shall certify hearing examiners according to the criteria established under Subsection (a). A person certified as a hearing examiner or the law firm with which the person is associated may not serve as an agent or representative of:

(1) a school district;

(2) a teacher in any dispute with a school district; or

(3) an organization of school employees, school administrators, or school boards.

(c) The commissioner shall set hourly rates of compensation for a hearing examiner and shall set a maximum amount of compensation a hearing examiner may receive for a hearing.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.253. Request for Hearing.

(a) A teacher must file a written request for a hearing under this subchapter with the commissioner not later than the 15th day after the date the teacher receives written notice of the proposed action. The teacher must provide the district with a copy of the request and must provide the commissioner with a copy of the notice.

(b) The parties may agree in writing to extend by not more than 10 days the deadline for requesting a hearing.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 12, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 902 (S.B. 893), § 1, effective June 20, 2003.)

Sec. 21.254. Assignment of Hearing Examiner.

(a) The commissioner shall maintain a list of the names of all persons who have been certified as hearing examiners. The list shall be initially prepared in a random order, and subsequent additions to the list shall be added chronologically.

(b) The commissioner shall assign the hearing examiner for a particular case by selecting the next person named on the list who resides within reasonable proximity to the district as determined by the commissioner. The commissioner may not change the order of names once the order is established under this section, except that once each hearing examiner on the list has been assigned to a case, the names shall be randomly reordered.

(c) If a hearing examiner is not selected by the parties to a pending case under Subsection (e), the commissioner shall assign a hearing examiner to the case not earlier than the sixth business day and not later than the 10th business day after the date on which the commissioner receives the request for a hearing. When a hearing examiner has been assigned to a case, the commissioner shall immediately notify the parties.

(d) The parties may agree to reject a hearing examiner for any reason and either party is entitled to reject the assigned hearing examiner for cause. A rejection must be in writing and filed with the

commissioner not later than the third day after the date of notification of the hearing examiner's assignment. If the parties agree to reject the hearing examiner or if the commissioner determines that one party has good cause to reject the hearing examiner, the commissioner shall assign another hearing examiner as provided by Subsection (b). If neither party makes a timely rejection, the assignment is final.

(e) After the teacher receives the notice of the proposed action, the parties by agreement may select a hearing examiner from the list maintained by the commissioner under Subsection (a) or a person who is not certified to serve as a hearing examiner. A person who is not a certified hearing examiner may be selected only if the person is licensed to practice law in this state. If the parties agree on a hearing examiner, the parties shall, before the date the commissioner is permitted to assign a hearing examiner, notify the commissioner in writing of the agreement, including the name of the hearing examiner selected.

(f) After the teacher receives the notice of the proposed action, the teacher and the district may agree in writing that the decision of the hearing examiner will be final and nonappealable on all or some issues.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 13, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 902 (S.B. 893), § 2, effective June 20, 2003.)

Sec. 21.255. Hearings Before Hearing Examiner.

(a) The hearing examiner may issue subpoenas at the request of either party for the attendance of witnesses and the production of documents at the hearing and may administer oaths, rule on motions and the admissibility of evidence, maintain decorum by closing the hearing or taking other appropriate action, schedule and recess the proceedings, and make any other orders as provided by rules adopted by the commissioner. The hearing examiner may issue a subpoena for the attendance of a person who is not an employee of the district only if the party requesting the issuance of the subpoena shows good cause for the subpoena. The hearing must be held within the geographical boundaries of the school district or at the regional education service center that serves the district.

(b) A hearing examiner may allow either party to take one or more depositions or to use other means of discovery before the hearing. The hearing examiner, at the request of either party, may issue subpoenas for the attendance of witnesses and the production of documents at the deposition. The hearing examiner may issue a subpoena for the deposition of any person who is not an employee of the district only if the party requesting the issuance of the subpoena shows good cause for the subpoena. The deposition must be held within the geographical boundaries of the school district or at the regional education service center that serves the district.

(c) A procedure specified in this section may be changed or eliminated by written agreement of the teacher and the school district after the teacher receives the written notice of the proposed action.

(d) If the hearing examiner is unable to continue presiding over a case at any time before issuing a recommendation or decision, the parties shall request the assignment of another hearing examiner under Section 21.254 who, after a review of the record, shall perform any remaining functions without the necessity of repeating any previous proceedings.

(e) The school district shall bear the cost of the services of the hearing examiner and certified shorthand reporter at the hearing and the production of any original hearing transcript. Each party shall bear its respective costs, including the cost of discovery, if any, and attorney's fees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.256. Conduct of Hearing.

(a) A hearing under this subchapter must be private unless the teacher requests in writing that the hearing be public, except that a hearing examiner may close a hearing if necessary to maintain decorum.

(b) The hearing is not subject to Chapter 2001, Government Code.

(c) At the hearing, a teacher has the right to:

(1) be represented by a representative of the teacher's choice;

(2) hear the evidence on which the charges are based;

(3) cross-examine each adverse witness; and

(4) present evidence.

(d) The Texas Rules of Evidence apply at the hearing. A certified shorthand reporter shall record the hearing.

(e) The hearing shall be conducted in the same manner as a trial without a jury in a district court of this state. The hearing examiner's findings of fact and conclusions of law shall be presumed to be based only on admissible evidence.

(f) To protect the privacy of a witness who is a child, the hearing examiner may:

(1) close the hearing to receive the testimony of the witness; or

(2) order that the testimony or a statement of the witness be presented using the procedures prescribed by Article 38.071, Code of Criminal Procedure.

(g) An evaluation or appraisal of the teacher is presumed to be admissible at the hearing.

(h) At the hearing, the school district has the burden of proof by a preponderance of the evidence.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 5, § 5.003, effective September 1, 2005.)

Sec. 21.257. Recommendation of Hearing Examiner.

(a) Not later than the 60th day after the date on which the commissioner receives a teacher's written request for a hearing, the hearing examiner shall complete the hearing and make a written recommendation that:

(1) includes proposed findings of fact and conclusions of law; and

(2) may include a proposal for granting relief.

(a-1) A determination by the hearing examiner regarding good cause for the suspension of a teacher without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the board of trustees or board subcommittee as provided by Section 21.259(b).

(b) The proposed relief under Subsection (a)(2) may include reinstatement, back pay, or employment benefits but may not include attorney's fees or other costs associated with the hearing or appeals from the hearing.

(c) The parties may agree in writing to extend by not more than 45 days the right to a recommendation by the date prescribed by Subsection (a). A hearing under this section may not be held on a Saturday, Sunday, or a state or federal holiday, unless all parties agree.

(d) The hearing examiner shall send a copy of the recommendation to each party, the president of the board of trustees, and the commissioner.

(e) A hearing examiner who fails to timely issue a written recommendation or decision may not be assigned by the commissioner to conduct additional hearings for a period not to exceed one year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 14, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 902 (S.B. 893), § 3, effective June 20, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 13, effective September 28, 2011.)

Sec. 21.258. Consideration of Recommendation by Board of Trustees or Board Subcommittee.

(a) The board of trustees or a subcommittee designated by the board shall consider the recommendation and record of the hearing examiner at the first board meeting for which notice can be posted in compliance with Chapter 551, Government Code, following the issuance of the recommendation. The meeting must be held not later than the 20th day after the date that the president of the board receives the hearing examiner's recommendation and the record of the hearing.

(b) At the meeting, the board of trustees or board subcommittee shall consider the hearing examiner's recommendation and shall allow each party to present an oral argument to the board or subcommittee. The board by written policy may limit the amount of time for oral argument. The policy must provide equal time for each party.

(c) The board of trustees or board subcommittee may obtain advice concerning legal matters from an attorney who has not been involved in the proceedings.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.259. Decision of Board of Trustees or Board Subcommittee.

(a) Not later than the 10th day after the date of the board meeting under Section 21.258, the board of trustees or board subcommittee shall announce a decision that:

(1) includes findings of fact and conclusions of law; and

(2) may include a grant of relief.

(b) The board of trustees or board subcommittee may adopt, reject, or change the hearing examiner's:

(1) conclusions of law, including a determination regarding good cause for suspension without pay or termination; or

(2) proposal for granting relief.

(c) The board of trustees or board subcommittee may reject or change a finding of fact made by the hearing examiner only after reviewing the record of the proceedings before the hearing examiner and only if the finding of fact is not supported by substantial evidence.

(d) The board of trustees or board subcommittee shall state in writing the reason and legal basis for a change or rejection made under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 14, effective September 28, 2011.)

Sec. 21.260. Recording of Board Meeting and Announcement.

A certified shorthand reporter shall record the oral argument under Section 21.258 and the announcement of the decision under Section 21.259. The school district shall bear the cost of the services of the certified shorthand reporter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER G
APPEALS TO COMMISSIONER OF EDUCATION

Sec. 21.301. Appeal to Commissioner.

(a) Not later than the 20th day after the date the board of trustees or board subcommittee announces its decision under Section 21.259 or the board advises the teacher of its decision not to renew the teacher's contract under Section 21.208, the teacher may appeal the decision by filing a petition for review with the commissioner.

(b) The school district must file a response not later than the 20th day after the date the petition for review is filed. The record of the local hearing must be filed with the district's response or be filed alone within the period for a response if the district does not file a response. A school district's filing of the record with the commissioner under this subsection is not an offense under Section 551.146, Government Code.

(c) The commissioner shall review the record of the hearing before the hearing examiner and the oral argument before the board of trustees or board subcommittee. Except as provided in Section 21.302, the commissioner shall consider the appeal solely on the basis of the local record and may not consider any additional evidence or issue. The commissioner, on the motion of a party or on the commissioner's motion, may hear oral argument. The commissioner shall accept written argument.

(d) In conducting a hearing under this section, the commissioner has the same authority relating to discovery and conduct of a hearing as a hearing examiner has under Subchapter F.

(e) The commissioner may adopt rules governing the conduct of an appeal to the commissioner. An appeal to the commissioner under this section is not subject to Chapter 2001, Government Code.

(f) The commissioner may obtain advice concerning legal matters from the chief legal officer of the agency if the chief legal officer has not been involved in the proceedings.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 895 (H.B. 3463), § 2, effective June 14, 2001.)

Sec. 21.302. Evidentiary Hearing Before Commissioner.

(a) If a party alleges that procedural irregularities that are not reflected in the local record occurred at the hearing before the hearing examiner, the commissioner may hold a hearing for the presentation of evidence on that issue. The party alleging that procedural irregularities occurred shall identify the specific alleged defect and its claimed effect on the board's or board subcommittee's decision. The commissioner may make appropriate orders consistent with rules adopted by the commissioner. The commissioner's determination on any alleged procedural irregularities is final and may not be appealed.

(b) A hearing under this section shall be recorded by a certified shorthand reporter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.303. Determination by Commissioner.

(a) If the board of trustees decided not to renew a teacher's term contract, the commissioner may not substitute the commissioner's judgment for that of the board of trustees unless the decision was arbitrary, capricious, or unlawful or is not supported by substantial evidence.

(b) If the board of trustees terminated a teacher's probationary, continuing, or term contract during the contract term or suspended a teacher without pay, the commissioner may not substitute the commissioner's judgment for that of the board unless:

(1) if the board accepted the hearing examiner's findings of fact without modification, the decision is arbitrary, capricious, or unlawful or is not supported by substantial evidence; or

(2) if the board modified the hearing examiner's findings of fact, the decision is arbitrary, capricious, or unlawful or the hearing examiner's original findings of fact are not supported by substantial evidence.

(c) The commissioner may not reverse a decision of a board of trustees based on a procedural irregularity or error by a hearing examiner, the board of trustees, or a board subcommittee unless the commissioner determines that the irregularity or error was likely to have led to an erroneous decision by the board or board subcommittee.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.304. Decision of Commissioner.

(a) The commissioner's decision must be in writing and must include findings of fact and conclusions

of law. The commissioner may adopt by reference and incorporate findings of fact or conclusions of law from the local record.

(b) The commissioner must issue a decision not later than the 30th day after the last day on which a response to the petition for review may be filed under Section 21.301(b). If the commissioner fails to issue a decision within that time, the decision of the board is affirmed.

(c) The commissioner shall send a copy of the decision to each party or the party's representative by certified mail. The commissioner shall keep a record of the mailing. A party is presumed to be notified of the decision on the date the decision is received, as indicated by the certified mail return receipt.

(d) The commissioner shall maintain and index decisions of the commissioner issued under this section with the recommendations or decisions of the hearing examiner.

(e) If the commissioner reverses the action of the board of trustees, the commissioner shall order the school district to reinstate the teacher and to pay the teacher any back pay and employment benefits from the time of discharge or suspension to reinstatement.

(f) Instead of reinstating a teacher under Subsection (e), the school district may pay the teacher one year's salary to which the teacher would have been entitled from the date on which the teacher would have been reinstated.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.3041. Rehearing by Commissioner.

(a) Not later than the 20th day after the date the party or the party's representative receives notice of the commissioner's decision under Section 21.304, the party may file a request for rehearing.

(b) A request for rehearing is not required for a party to appeal the commissioner's decision under Section 21.307.

(c) A request for rehearing is denied by operation of law if the commissioner does not issue an order before the 45th day after the date the party or the party's representative receives notice of the commissioner's decision.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 15, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 902 (S.B. 893), § 4, effective June 20, 2003.)

Sec. 21.305. Costs on Appeal to Commissioner.

(a) If a teacher appeals the decision of the board of trustees or board subcommittee, the school district shall bear the cost of preparing the original transcripts of:

(1) the hearing before the hearing examiner; and

(2) the oral argument before the board of trustees or board subcommittee.

(b) Each party shall bear the cost of any copy of the transcript requested by that party.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.306. Ex Parte Communications Prohibited.

The commissioner and the staff of the agency may not communicate with any party or any party's representative in connection with any issue of fact or law except on notice and opportunity for each party to participate.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.307. Judicial Appeals.

(a) Either party may appeal the commissioner's decision to:

(1) a district court in the county in which the district's central administrative offices are located; or

(2) if agreed by all parties, a district court in Travis County.

(b) An appeal under this section must be perfected not later than the 30th day after:

(1) the date the party or the party's representative receives notice of the commissioner's decision or the date on which the decision of the board of trustees is affirmed by operation of law if the commissioner fails to issue a decision within the required period; or

(2) if a request for rehearing is filed under Section 21.3041, the date on which the request is denied by order of the commissioner or by operation of law under Section 21.3041(c).

(c) The commissioner and each party to the appeal to the commissioner must be made a party to an appeal under this section.

(d) The perfection of an appeal under this section does not affect the enforcement of the commissioner's decision.

(e) The court shall, under the substantial evidence rule, review the evidence on the evidentiary record made at the local level and any evidence taken by the commissioner but may not take additional evidence.

(f) The court may not reverse the decision of the commissioner unless the decision was not supported by substantial evidence or unless the commissioner's conclusions of law are erroneous.

(g) The court may not reverse a decision of the commissioner based on a procedural irregularity or error by a hearing examiner, a board of trustees or board subcommittee, or the commissioner unless the court determines that the irregularity or error was likely to have led to an erroneous decision by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 16, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 902 (S.B. 893), § 5, effective June 20, 2003.)

SUBCHAPTER H
APPRAISALS AND INCENTIVES

Sec. 21.351. Recommended Appraisal Process and Performance Criteria.

(a) The commissioner shall adopt a recommended appraisal process and criteria on which to appraise the performance of teachers. The criteria must be based on observable, job-related behavior, including:

(1) teachers' implementation of discipline management procedures; and

(2) the performance of teachers' students.

(b) The commissioner shall solicit and consider the advice of teachers in developing the recommended appraisal process and performance criteria.

(c) Under the recommended appraisal process, an appraiser must be the teacher's supervisor or a person approved by the board of trustees. An appraiser who is a classroom teacher may not appraise the performance of another classroom teacher who teaches at the same school campus at which the appraiser teaches, unless it is impractical because of the number of campuses or unless the appraiser is the chair of a department or grade level whose job description includes classroom observation responsibilities.

(d) Under the recommended appraisal process, appraisal for teachers must be detailed by category of professional skill and characteristic and must provide for separate ratings for each category. The appraisal process shall guarantee a conference between the teacher and the appraiser. The conference shall be diagnostic and prescriptive with regard to remediation needed in overall performance and by category.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.352. Local Role.

(a) In appraising teachers, each school district shall use:

(1) the appraisal process and performance criteria developed by the commissioner; or

(2) an appraisal process and performance criteria:

(A) developed by the district- and campus-level committees established under Section 11.251;

(B) containing the items described by Sections 21.351(a)(1) and (2); and

(C) adopted by the board of trustees.

(b) The board of trustees may reject an appraisal process and performance criteria developed by the district- and campus-level committees but may not modify the process or criteria.

(c) Except as otherwise provided by this subsection, appraisal must be done at least once during each school year. A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years. The district shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file. Each teacher is entitled to receive a written copy of the evaluation promptly on its completion. After receiving a written copy of the evaluation, a teacher is entitled to a second appraisal by a different appraiser or to submit a written rebuttal to the evaluation to be attached to the evaluation in the teacher's personnel file. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.

(c-1) In addition to conducting a complete appraisal as frequently as required by Subsection (c), a school district shall require that appropriate components of the appraisal process, such as classroom observations and walk-throughs, occur more frequently as necessary to ensure that a teacher receives adequate evaluation and guidance. A school district shall give priority to conducting appropriate components more frequently for inexperienced teachers or experienced teachers with identified areas of deficiency.

(d) A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required.

(e) A district shall use a teacher's consecutive appraisals from more than one year, if available, in making the district's employment decisions and developing career recommendations for the teacher.

(f) The district shall notify a teacher of the results of any appraisal of the teacher in a timely manner so that the appraisal may be used as a developmental

tool by the district and the teacher to improve the overall performance of the teacher.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 244 (H.B. 1440), § 2, effective June 18, 2003; am. Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 6, effective September 1, 2013.)

Sec. 21.353. Appraisal on Basis of Classroom Teaching Performance.

A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the basis of classroom teaching performance and not on performance in connection with the extracurricular activities.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.354. Appraisal of Certain Administrators.

(a) The commissioner shall adopt a recommended appraisal process and criteria on which to appraise the performance of various classifications of school administrators. The criteria must be based on job-related performance.

(a-1) This section does not apply to the appraisal of the performance of a principal.

(b) The commissioner may solicit and consider the advice of teachers and administrators in developing the appraisal process and performance criteria.

(c) Each school district shall appraise each administrator annually using either:

(1) the commissioner's recommended appraisal process and performance criteria; or

(2) an appraisal process and performance criteria:

(A) developed by the district in consultation with the district- and campus-level committees established under Section 11.251; and

(B) adopted by the board of trustees.

(d) Funds of a school district may not be used to pay an administrator who has not been appraised under this section in the preceding 15 months.

(e) [Repealed by Acts 2011, 82nd Leg., ch. 1093 (S.B. 1383), § 5, effective June 17, 2011.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995 am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 21, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1093 (S.B. 1383), §§ 1, 2, 5, effective June 17, 2011.)

Sec. 21.3541. Appraisal and Professional Development System for Principals.

(a) The commissioner by rule shall establish and shall administer a comprehensive appraisal and professional development system for principals.

(b) The commissioner may establish a consortium of nationally recognized experts on educational leadership and policy to:

(1) assist the commissioner in effectively researching and developing the comprehensive appraisal and professional development system described by Subsection (a); and

(2) evaluate relevant research and practices and make recommendations to the commissioner to improve the quality of the training, appraisal, professional development, and compensation of principals.

(c) If the commissioner establishes the consortium, the commissioner shall select a presiding officer of the consortium. The presiding officer:

(1) must be an expert on educational leadership and policy;

(2) must have a demonstrated ability to lead a statewide school leadership reform initiative; and

(3) may not be employed by a school district in this state.

(d) The commissioner shall establish school leadership standards and a set of indicators of successful school leadership to align with the training, appraisal, and professional development of principals.

(e) In carrying out the commissioner's powers and duties under this section, the commissioner may use only money available from private sources that may be used for that purpose.

(f) In appraising principals, each school district shall use either:

(1) the appraisal system and school leadership standards and indicators developed or established by the commissioner under this section; or

(2) an appraisal process and performance criteria:

(A) developed by the district in consultation with the district-level and campus-level committees established under Section 11.251; and

(B) adopted by the board of trustees.

(g) Each school district shall appraise each principal annually.

(h) **[Expires January 1, 2015]** Not later than December 1 of 2012 and 2014, the commissioner shall submit a written report to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing legislative committee with primary jurisdiction over public education of:

(1) any action taken under this section; and

(2) any recommendations for legislative action concerning the training, appraisal, professional development, or compensation of principals.

(i) **[Expires January 1, 2015]** Subsection (h) and this subsection expire January 1, 2015.
(Enacted by Acts 2011, 82nd Leg., ch. 1093 (S.B. 1383), § 3, effective June 17, 2011.)

Sec. 21.355. Confidentiality.

(a) A document evaluating the performance of a teacher or administrator is confidential.

(b) Subsection (a) applies to a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified under Subchapter B.

(c) At the request of a school district or open-enrollment charter school at which a teacher or administrator has applied for employment, an open-enrollment charter school may give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 1305 (H.B. 2971), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1305 (H.B. 2971), § 2 provides: "Section 21.355, Education Code, as amended by this Act, applies to each document described by that section, regardless of whether the document was created before, on, or after the effective date of this Act [June 17, 2011]."

Sec. 21.356. Evaluation of School Counselors.

The commissioner shall develop and periodically update a job description and an evaluation form for use by school districts in evaluating school counselors. The commissioner shall consult with state guidance counselor associations in the development and modification of the job description and the evaluation form.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.357. Performance Incentives.

(a) The commissioner shall design an objective system to evaluate principals that:

(1) is based on types of information available as of January 1, 1995, through the Public Education Information Management System (PEIMS) and the state's public school accountability system;

(2) focuses on gain at a principal's campus and includes a statistical analysis comparing current campus performance to previous performance; and

(3) does not include subjective items.

(b) From funds appropriated for that purpose, the commissioner may award performance incentives to principals identified through the evaluation system as high-performing. Based on available appropriations, for each fiscal year, a performance incentive may not exceed:

(1) $5,000, for a principal ranked in the top quartile; or

(2) $2,500, for a principal ranked in the second quartile.

(c) A performance incentive awarded to a principal under this section must be distributed to the principal's school and used in the manner determined by the campus-level committee established under Section 11.253 in accordance with the requirements of Section 39.264(a).

(d) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(8), effective June 17, 2011.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 824 (S.B. 168), § 1, effective September 1, 1997; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 22, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(8), effective June 17, 2011.)

SUBCHAPTER I
DUTIES AND BENEFITS

Sec. 21.401. Minimum Service Required.

(a) A contract between a school district and an educator must be for a minimum of 10 months' service.

(a-1), (a-2) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1997.]

(a-3) [Expired pursuant to Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.05, effective September 1, 1998.]

(a-4) [Expired pursuant to Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.05, effective September 1, 1999.]

(b) An educator employed under a 10-month contract must provide a minimum of 187 days of service.

(c) The commissioner, as provided by Section 25.081(b), may reduce the number of days of service required by this section. A reduction by the commissioner does not reduce an educator's salary.

(d) Subsections (a) and (b) do not apply to a contract between a school district and an educational diagnostician.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.05, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 949 (S.B. 1893), § 1, effective September 1, 1997; am.

Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.30, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 82 (S.B. 158), § 2, effective September 1, 2007.)

Sec. 21.4011. Minimum Salary Schedule for Classroom Teachers and Full-Time Librarians for 1995-1996 School Year [Expired].

Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1996.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.402. Minimum Salary Schedule for Certain Professional Staff.

(a) **[2 Versions: Effective Until September 1, 2017]** Except as provided by Subsection (f), a school district must pay each classroom teacher, full-time librarian, full-time school counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a).

(a) **[2 Versions: Effective September 1, 2017]** Except as provided by Subsection (e-1) or (f), a school district must pay each classroom teacher, full-time librarian, full-time school counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a).

(b) Not later than June 1 of each year, the commissioner shall determine the basic allotment and resulting monthly salaries to be paid by school districts as provided by Subsection (a).

(c) The salary factors per step are as follows:

Years Experience	0	1	2	3	4
Salary Factor	.5464	.5582	.5698	.5816	.6064
Years Experience	5	6	7	8	9
Salary Factor	.6312	.6560	.6790	.7008	.7214
Years Experience	10	11	12	13	14
Salary Factor	.7408	.7592	.7768	.7930	.8086
Years Experience	15	16	17	18	19
Salary Factor	.8232	.8372	.8502	.8626	.8744
Years Experience	20 and over				
Salary Factor	.8854				

(c-1) Notwithstanding Subsections (a) and (b), each school district shall pay a monthly salary to each classroom teacher, full-time speech pathologist, full-time librarian, full-time school counselor certified under Subchapter B, and full-time school nurse that is at least equal to the following monthly salary or the monthly salary determined by the commissioner under Subsections (a) and (b), whichever is greater:

Years of Experience	Monthly Salary
0	2,732
1	2,791
2	2,849
3	2,908
4	3,032
5	3,156
6	3,280
7	3,395
8	3,504
9	3,607
10	3,704
11	3,796
12	3,884
13	3,965
14	4,043
15	4,116
16	4,186
17	4,251
18	4,313
19	4,372
20 & Over	4,427

(c-2), (c-3) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.31(1), effective September 1, 2011.]

(d), (e) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.31(1), effective September 1, 2011.]

(e-1) **[Effective September 1, 2017]** If the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year.

(f) Notwithstanding Subsection (a), a teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994—1995 school year as long as the teacher or librarian is employed by the same district.

(g) The commissioner may adopt rules to govern the application of this section, including rules that:

(1) require the payment of a minimum salary under this section to a person employed in more than one capacity for which a minimum salary is provided and whose combined employment in those capacities constitutes full-time employment; and

(2) specify the credentials a person must hold to be considered a speech pathologist or school nurse under this section.

(h) In this section, "gross monthly salary" must include the amount a teacher or librarian received that represented a career ladder salary supplement under Section 16.057, as that section existed January 1, 1993.

(i) [Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.04, effective September 1, 2013.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.06, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.30, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 2, § 2.01, effective September 1, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.05, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 9, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 57.04, 57.31(1), effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.05, effective September 1, 2017; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), §§ 15, 21(2), effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), §§ 11, 13, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 12, effective September 1, 2017.)

Sec. 21.4021. Furloughs.

(a) Notwithstanding Section 21.401 and subject to Section 21.4022, the board of trustees of a school district may, in accordance with district policy, implement a furlough program and reduce the number of days of service otherwise required under Section 21.401 by not more than six days of service during a school year if the commissioner certifies in accordance with Section 42.009 that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year.

(b) Notwithstanding Section 21.402, the board of trustees may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced, provided that the furlough program is implemented in compliance with this section.

(b-1) A furlough program must subject all contract personnel to the same number of furlough days.

(c) An educator may not be furloughed on a day that is included in the number of days of instruction required under Section 25.081.

(d) An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.

(e) A furlough imposed under this section does not constitute a break in service for purposes of the Teacher Retirement System of Texas. A furlough day does not constitute a day of service for purposes of the Teacher Retirement System of Texas.

(f) Implementation of a furlough program may not result in an increase in the number of required teacher workdays.

(g) If a board of trustees adopts a furlough program after the date by which a teacher must give notice of resignation under Section 21.105, 21.160, or 21.210, as applicable, a teacher who subsequently resigns is not subject to sanctions imposed by the State Board for Educator Certification as otherwise authorized by those sections.

(h) A decision by the board of trustees to implement a furlough program:

(1) is final and may not be appealed; and

(2) does not create a cause of action or require collective bargaining.

(i) Any reduction under this section in the amount of the annual salary paid to an employee must be equally distributed over the course of the employee's current contract with the school district.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 16, effective September 28, 2011.)

Sec. 21.4022. Required Process for Development of Furlough Program or

Other Salary Reduction Proposal.

(a) The board of trustees of a school district may not implement a furlough program under Section 21.4021 or reduce salaries until the district has complied with this section.

(b) A school district must use a process to develop a furlough program or other salary reduction proposal, as applicable, that:

(1) includes the involvement of the district's professional staff; and

(2) provides district employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal, as applicable, at the public meeting required by Subsection (c).

(c) The board of trustees must hold a public meeting at which the board and school district administration present:

(1) information regarding the options considered for managing the district's available resources, including consideration of a tax rate increase and use of the district's available fund balance;

(2) an explanation of how the district intends, through implementation of a furlough program under Section 21.4021 or through other salary reductions, as applicable, to limit the number of district employees who will be discharged or whose contracts will not be renewed; and

(3) information regarding the local option residence homestead exemption.

(d) Any explanation of a furlough program under Subsection (c)(2) must state the specific number of furlough days proposed to be required.

(e) The public and school district employees must be provided with an opportunity to comment at the public meeting required under Subsection (c).

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 16, effective September 28, 2011.)

Sec. 21.403. Placement on Minimum Salary Schedule.

(a) A teacher, librarian, school counselor, or nurse shall advance one step on the minimum salary schedule under Section 21.402 for each year of experience as a teacher, librarian, school counselor, or nurse until step 20 is reached.

(b) For each year of work experience required for certification in a career or technological field, up to a maximum of two years, a certified career or technology education teacher is entitled to salary step credit as if the work experience were teaching experience.

(c) The commissioner shall adopt rules for determining the experience for which a teacher, librarian, school counselor, or nurse is to be given credit in placing the teacher, librarian, school counselor, or nurse on the minimum salary schedule. A district shall credit the teacher, librarian, school counselor, or nurse for each year of experience without regard to whether the years are consecutive.

(d) As long as a teacher or librarian who received a career ladder supplement is employed by the same school district, the teacher or librarian is entitled to:

(1) placement on the minimum salary schedule at the step above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level two of the career ladder on August 31, 1993; or

(2) placement on the minimum salary schedule at the step two steps above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level three of the career ladder on August 31, 1993.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 921 (S.B. 280), § 1, effective June 18, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.31, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 14, effective June 14, 2013.)

Sec. 21.4031. Professional Staff Service Records.

(a) In this section:

(1) "Salary schedule" means the minimum salary schedule under Section 21.402 or a comparable salary schedule used by a school district that specifies salary amounts based on an employee's level of experience.

(2) "Service record" means a school district document that indicates the total years of service provided to the district by a classroom teacher, librarian, school counselor, or nurse.

(b) On request by a classroom teacher, librarian, school counselor, or nurse or by the school district employing one of those individuals, a school district that previously employed the individual shall provide a copy of the individual's service record to the school district employing the individual. The district must provide the copy not later than the 30th day after the later of:

(1) the date the request is made; or

(2) the date of the last day of the individual's service to the district.

(c) If a school district fails to provide an individual's service record as required by Subsection (b), the agency shall, to the extent that information is available to the agency, provide the employing school district with information sufficient to enable the district to determine proper placement of the individual on the district's salary schedule.

(Enacted by Acts 2009, 81st Leg., ch. 370 (H.B. 1365), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), §§ 15, 16, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 370 (H.B. 1365), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Sec. 21.4032. Reductions in Salaries of Classroom Teachers and Administrators.

(a) This section applies only to a widespread reduction in the amount of the annual salaries paid to school district classroom teachers based primarily on district financial conditions rather than on teacher performance.

(b) For any school year in which a school district has reduced the amount of the annual salaries paid to district classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district administrator or other professional employee by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 16, effective September 28, 2011.)

Sec. 21.404. Planning and Preparation Time.

Each classroom teacher is entitled to at least 450 minutes within each two-week period for instructional preparation, including parent-teacher conferences, evaluating students' work, and planning. A planning and preparation period under this section may not be less than 45 minutes within the instructional day. During a planning and preparation period, a classroom teacher may not be required to participate in any other activity.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.405. Duty-Free Lunch.

(a) Except as provided by Subsection (c), each classroom teacher or full-time librarian is entitled to at least a 30-minute lunch period free from all duties and responsibilities connected with the instruction and supervision of students. Each school district may set flexible or rotating schedules for each classroom teacher or full-time librarian in the district for the implementation of the duty-free lunch period.

(b) The implementation of this section may not result in a lengthened school day.

(c) If necessary because of a personnel shortage, extreme economic conditions, or an unavoidable or unforeseen circumstance, a school district may require a classroom teacher or librarian entitled to a duty-free lunch to supervise students during lunch. A classroom teacher or librarian may not be required to supervise students under this subsection more than one day in any school week. The commissioner by rule shall prescribe guidelines for determining what constitutes a personnel shortage, extreme economic conditions, or an unavoidable or unforeseen circumstance for purposes of this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.406. Denial of Compensation Based on Absence for Religious Observance Prohibited.

A school district may not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a holy day observed by a religion whose places of worship are exempt from property taxation under Section 11.20, Tax Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.407. Requiring or Coercing Teachers to Join Groups, Clubs, Committees, or Organizations: Political Affairs.

(a) A school district board of trustees or school district employee may not directly or indirectly require or coerce any teacher to join any group, club, committee, organization, or association.

(b) A school district board of trustees or school district employee may not directly or indirectly coerce any teacher to refrain from participating in political affairs in the teacher's community, state, or nation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.408. Right to Join or Not to Join Professional Association.

This chapter does not abridge the right of an educator to join any professional association or organization or refuse to join any professional association or organization.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.409. Leave of Absence for Temporary Disability.

(a) Each full-time educator employed by a school district shall be given a leave of absence for temporary disability at any time the educator's condition

interferes with the performance of regular duties. The contract or employment of the educator may not be terminated by the school district while the educator is on a leave of absence for temporary disability. "Temporary disability" in this section includes the condition of pregnancy.

(b) A request for a leave of absence for temporary disability must be made to the superintendent of the school district. The request must be accompanied by a physician's statement confirming inability to work and must state the date requested by the educator for the leave to begin and the probable date of return as certified by the physician.

(c) The board of trustees of a school district may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the board's judgment and in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. A policy adopted under this subsection must reserve to the educator the right to present to the board testimony or other information relevant to the educator's fitness to continue the performance of regular duties.

(d) The educator must notify the superintendent of the desire to return to active duty not later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.

(e) An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator must be placed on active duty not later than the beginning of the next term.

(f) The length of a leave of absence for temporary disability shall be granted by the superintendent as required by the individual educator. The board of trustees of a school district may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 days.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.410. Master Reading Teacher Grant Program.

(a) The commissioner shall establish a master reading teacher grant program to encourage teachers to:

(1) become certified as master reading teachers; and

(2) work with other teachers and with students in order to improve student reading performance.

(b) From funds appropriated for the purpose, the commissioner shall make grants to school districts as provided by this section to pay stipends to selected certified master reading teachers who teach at high-need campuses.

(c) The commissioner shall annually identify each high-need campus in a school district using criteria established by the commissioner by rule, including performance on the reading assessment instrument administered under Section 39.023. The commissioner shall also use the criteria to rank campuses in order of greatest need.

(d) A school district may apply to the commissioner for grants for each high-need campus identified by the commissioner to be used to pay stipends to certified master reading teachers in accordance with this section. Unless reduced under Subsection (g) or (i), each grant is in the amount of $5,000. The commissioner shall approve the application if the district:

(1) applies within the period and in the manner required by rule adopted by the commissioner; and

(2) agrees to use each grant only for the purpose of paying a year-end stipend to a master reading teacher:

(A) who holds a certificate issued under Section 21.0481;

(B) who teaches in a position prescribed by the district at a high-need campus identified by the commissioner;

(C) whose primary duties include:

(i) teaching reading; and

(ii) serving as a reading teaching mentor to other teachers for the amount of time and in the manner established by the district and by rule adopted by the commissioner; and

(D) who satisfies any other requirements established by rule adopted by the commissioner.

(e) Unless reduced under Subsection (g) or (i), a stipend under Subsection (d)(2) is in the amount of $5,000.

(f) The commissioner shall adopt rules for the distribution of grants to school districts following the year of the initial grant. A district that has been approved for a grant to pay a stipend to a certified master reading teacher is not required to reapply for a grant for two consecutive school years following the year of the intitial [initial] grant if the district:

(1) continues to pay a stipend as provided by Subsection (g); and

(2) notifies the commissioner in writing, within the period and in the manner prescribed by the

commissioner, that the circumstances on which the grant was based have not changed.

(g) The commissioner shall reduce payments to a school district proportionately to the extent a teacher does not meet the requirements under Subsection (d)(2) for the entire school year. A district that employs more certified master reading teachers than the number of grants available under this section shall select the certified master reading teachers to whom to pay stipends based on a policy adopted by the board of trustees of the district, except that a district shall pay a stipend for two additional consecutive school years to a teacher the district has selected for and paid a stipend for a school year, who remains eligible for a stipend under Subsection (d)(2), and for whom the district receives a grant under this section for those years. A decision of the district under this subsection is final and may not be appealed. The district may not apportion among teachers a stipend paid for with a grant the district receives under this section. The district may use local money to pay additional stipends in amounts determined by the district.

(h) A grant a school district receives under this section is in addition to any funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.

(i) This section does not create a property right to a grant or stipend. A school district is entitled to a grant to carry out the purposes of this section only to the extent the commissioner makes the grant in accordance with this section and only to the extent sufficient state funds are appropriated for those purposes. If state funds are appropriated but are insufficient to fully fund a grant, the commissioner shall reduce the grant paid to each district and the district shall reduce the stipend the district pays to each teacher under this section proportionately so that each selected teacher receives the same amount of money.

(j) A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. Each district shall, in the manner and at the time prescribed by the commissioner, provide to the commissioner proof acceptable to the commissioner of the master reading teacher certification of a teacher to whom the district is paying a stipend under this section.

(k) The commissioner may audit the expenditure of money appropriated for purposes of this section. A district's use of the money appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(*l*) A stipend a teacher receives under this section is not considered in determining whether the district is paying the teacher the minimum monthly salary under Section 21.402.

(m) The commissioner may adopt other rules as necessary to implement this section.

(Enacted by Acts 1999, 76th Leg., ch. 931 (H.B. 2307), § 1, effective August 30, 1999.)

Sec. 21.411. Master Mathematics Teacher Grant Program.

(a) The commissioner shall establish a master mathematics teacher grant program to encourage teachers to:

(1) become certified as master mathematics teachers; and

(2) work with other teachers and with students in order to improve student mathematics performance.

(b) From funds appropriated for the purpose, the commissioner shall make grants to school districts as provided by this section to pay stipends to selected certified master mathematics teachers who teach at high-need campuses.

(c) The commissioner shall annually identify each high-need campus in a school district using criteria established by the commissioner by rule, including performance on the mathematics assessment instrument administered under Section 39.023. The commissioner shall also use the criteria to rank campuses in order of greatest need.

(d) A school district may apply to the commissioner for grants for each high-need campus identified by the commissioner to be used to pay stipends to certified master mathematics teachers in accordance with this section. Unless reduced under Subsection (g) or (i), each grant is in the amount of $5,000. The commissioner shall approve the application if the district:

(1) applies within the period and in the manner required by rule adopted by the commissioner; and

(2) agrees to use each grant only for the purpose of paying a year-end stipend to a master mathematics teacher:

(A) who holds the appropriate certificate issued under Section 21.0482;

(B) who teaches in a position prescribed by the district at a high-need campus identified by the commissioner;

(C) whose primary duties include:

(i) teaching mathematics; and

(ii) serving as a mathematics teaching mentor to other teachers for the amount of time and in the manner established by the district and by rule adopted by the commissioner; and

(D) who satisfies any other requirements established by rule adopted by the commissioner.

(e) Unless reduced under Subsection (g) or (i), a stipend under Subsection (d)(2) is in the amount of $5,000.

(f) The commissioner shall adopt rules for the distribution of grants to school districts following the year of the initial grant. A district that has been approved for a grant to pay a stipend to a certified master mathematics teacher is not required to reapply for a grant for two consecutive school years following the year of the initial grant if the district:

(1) continues to pay a stipend as provided by Subsection (g); and

(2) notifies the commissioner in writing, within the period and in the manner prescribed by the commissioner, that the circumstances on which the grant was based have not changed.

(g) The commissioner shall reduce payments to a school district proportionately to the extent a teacher does not meet the requirements under Subsection (d)(2) for the entire school year. A district that employs more certified master mathematics teachers than the number of grants available under this section shall select the certified master mathematics teachers to whom to pay stipends based on a policy adopted by the board of trustees of the district, except that a district shall pay a stipend for two additional consecutive school years to a teacher the district has selected for and paid a stipend for a school year, who remains eligible for a stipend under Subsection (d)(2), and for whom the district receives a grant under this section for those years. A decision of the district under this subsection is final and may not be appealed. The district may not apportion among teachers a stipend paid for with a grant the district receives under this section. The district may use local money to pay additional stipends in amounts determined by the district.

(h) A grant a school district receives under this section is in addition to any funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.

(i) This section does not create a property right to a grant or stipend. A school district is entitled to a grant to carry out the purposes of this section only to the extent the commissioner makes the grant in accordance with this section and only to the extent sufficient state funds are appropriated for those purposes. If state funds are appropriated but are insufficient to fully fund a grant, the commissioner shall reduce the grant paid to each district and the district shall reduce the stipend the district pays to each teacher under this section proportionately so that each selected teacher receives the same amount of money.

(j) A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. Each district shall, in the manner and at the time prescribed by the commissioner, provide to the commissioner proof acceptable to the commissioner of the master mathematics teacher certification of a teacher to whom the district is paying a stipend under this section.

(k) The commissioner may audit the expenditure of money appropriated for purposes of this section. A district's use of the money appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(*l*) A stipend a teacher receives under this section is not considered in determining whether the district is paying the teacher the minimum monthly salary under Section 21.402.

(m) The commissioner may adopt other rules as necessary to implement this section.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 5, effective September 1, 2001.)

Sec. 21.412. Master Technology Teacher Grant Program.

(a) The commissioner shall establish a master technology teacher grant program to encourage teachers to:

(1) become certified as master technology teachers; and

(2) work with other teachers and with students in order to increase the use of technology in each classroom.

(b) From funds appropriated for the purpose, the commissioner shall make grants to school districts as provided by this section to pay stipends to selected certified master technology teachers. The commissioner shall give preference to teachers who teach at high-need campuses.

(c) The commissioner shall annually identify each high-need campus in a school district using criteria

established by the commissioner by rule. The commissioner shall also use the criteria to rank campuses in order of greatest need.

(d) A school district may apply to the commissioner for grants to be used to pay stipends to certified master technology teachers in accordance with this section. Unless reduced under Subsection (g) or (i), each grant is in the amount of $5,000. The commissioner shall approve the application if the district:

(1) applies within the period and in the manner required by rule adopted by the commissioner; and

(2) agrees to use each grant only for the purpose of paying a year-end stipend to a master technology teacher:

(A) who holds a certificate issued under Section 21.0483;

(B) who teaches in a position prescribed by the district;

(C) whose primary duties include serving as a technology training mentor to other teachers for the amount of time and in the manner established by the district and by rule adopted by the commissioner; and

(D) who satisfies any other requirements established by rule adopted by the commissioner.

(e) Unless reduced under Subsection (g) or (i), a stipend under Subsection (d)(2) is in the amount of $5,000.

(f) The commissioner shall adopt rules for the distribution of grants to school districts in years following the year of the initial grant. A district that has been approved for a grant to pay a stipend to a certified master technology teacher is not required to reapply for a grant for two consecutive school years following the year of the initial grant if the district:

(1) continues to pay a stipend as provided by Subsection (g); and

(2) notifies the commissioner in writing, within the period and in the manner prescribed by the commissioner, that the circumstances on which the grant was based have not changed.

(g) The commissioner shall reduce payments to a school district proportionately to the extent a teacher does not meet the requirements under Subsection (d)(2) for the entire school year. A district that employs more certified master technology teachers than the number of grants available under this section shall select the certified master technology teachers to whom to pay stipends based on a policy adopted by the board of trustees of the district, except that a district shall pay a stipend for two additional consecutive school years to a teacher the district has selected for and paid a stipend for a school year, who remains eligible for a stipend under Subsection (d)(2), and for whom the district receives a grant under this section for those years. A decision of the district under this subsection is final and may not be appealed. The district may not apportion among teachers a stipend paid for with a grant the district receives under this section. The district may use local money to pay additional stipends in amounts determined by the district.

(h) A grant a school district receives under this section is in addition to any funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.

(i) This section does not create a property right to a grant or stipend. A school district is entitled to a grant to carry out the purposes of this section only to the extent the commissioner makes the grant in accordance with this section and only to the extent sufficient state funds are appropriated for those purposes. If state funds are appropriated but are insufficient to fully fund a grant, the commissioner shall determine the method of distributing the funds.

(j) A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. Each district shall, in the manner and at the time prescribed by the commissioner, provide to the commissioner proof acceptable to the commissioner of the master technology teacher certification of a teacher to whom the district is paying a stipend under this section.

(k) The commissioner may audit the expenditure of money appropriated for purposes of this section. A district's use of the money appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(*l*) A stipend a teacher receives under this section is not considered in determining whether the district is paying the teacher the minimum monthly salary under Section 21.402.

(m) The commissioner may adopt other rules as necessary to implement this section.

(Enacted by Acts 2001, 77th Leg., ch. 1301 (H.B. 1475), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(13), effective September 1, 2003 (renumbered from Sec.

21.411); am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 3(5), effective September 1, 2003.)

Sec. 21.413. Master Science Teacher Grant Program.

(a) The commissioner shall establish a master science teacher grant program to encourage teachers to:

(1) become certified as master science teachers; and

(2) work with other teachers and with students in order to improve student science performance.

(b) From funds appropriated for the purpose, the commissioner shall make grants to school districts as provided by this section to pay stipends to selected certified master science teachers who teach at high-need campuses.

(c) The commissioner shall annually identify each high-need campus in a school district using criteria established by the commissioner by rule, including performance on the science assessment instrument administered under Section 39.023. The commissioner shall also use the criteria to rank campuses in order of greatest need.

(d) A school district may apply to the commissioner for grants for each high-need campus identified by the commissioner to be used to pay stipends to certified master science teachers in accordance with this section. Unless reduced under Subsection (g) or (i), each grant is in the amount of $5,000. The commissioner shall approve the application if the district:

(1) applies within the period and in the manner required by rule adopted by the commissioner; and

(2) agrees to use each grant only for the purpose of paying a year-end stipend to a master science teacher:

(A) who holds the appropriate certificate issued under Section 21.0484;

(B) who teaches in a position prescribed by the district at a high-need campus identified by the commissioner;

(C) whose primary duties include:

(i) teaching science; and

(ii) serving as a science teaching mentor to other teachers for the amount of time and in the manner established by the district and by rule adopted by the commissioner; and

(D) who satisfies any other requirements established by rule adopted by the commissioner.

(e) Unless reduced under Subsection (g) or (i), a stipend under Subsection (d)(2) is in the amount of $5,000.

(f) The commissioner shall adopt rules for the distribution of grants to school districts following the year of the initial grant. A district that has been approved for a grant to pay a stipend to a certified master science teacher is not required to reapply for a grant for two consecutive school years following the year of the initial grant if the district:

(1) continues to pay a stipend as provided by Subsection (g); and

(2) notifies the commissioner in writing, within the period and in the manner prescribed by the commissioner, that the circumstances on which the grant was based have not changed.

(g) The commissioner shall reduce payments to a school district proportionately to the extent a teacher does not meet the requirements under Subsection (d)(2) for the entire school year. A district that employs more certified master science teachers than the number of grants available under this section shall select the certified master science teachers to whom to pay stipends based on a policy adopted by the board of trustees of the district, except that a district shall pay a stipend for two additional consecutive school years to a teacher the district has selected for and paid a stipend for a school year, who remains eligible for a stipend under Subsection (d)(2), and for whom the district receives a grant under this section for those years. A decision of the district under this subsection is final and may not be appealed. The district may not apportion among teachers a stipend paid for with a grant the district receives under this section. The district may use local money to pay additional stipends in amounts determined by the district.

(h) A grant a school district receives under this section is in addition to any funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.

(i) This section does not create a property right to a grant or stipend. A school district is entitled to a grant to carry out the purposes of this section only to the extent the commissioner makes the grant in accordance with this section and only to the extent sufficient state funds are appropriated for those purposes. If state funds are appropriated but are insufficient to fully fund a grant, the commissioner shall reduce the grant paid to each district and the district shall reduce the stipend the district pays to each teacher under this section proportionately so

that each selected teacher receives the same amount of money.

(j) A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. Each district shall, in the manner and at the time prescribed by the commissioner, provide to the commissioner proof acceptable to the commissioner of the master science teacher certification of a teacher to whom the district is paying a stipend under this section.

(k) The commissioner may audit the expenditure of money appropriated for purposes of this section. A district's use of the money appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(*l*) A stipend a teacher receives under this section is not considered in determining whether the district is paying the teacher the minimum monthly salary under Section 21.402.

(m) The commissioner may adopt other rules as necessary to implement this section.

(Enacted by Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 2, effective September 1, 2003.)

Sec. 21.414. Classroom Supply Reimbursement Program.

(a) The commissioner shall establish a reimbursement program under which the commissioner provides funds to a school district for the purpose of reimbursing classroom teachers in the district who expend personal funds on classroom supplies. A school district must match any funds provided to the district under the reimbursement program with local funds to be used for the same purpose.

(b) The commissioner shall adopt rules for the local allocation of funds provided to a school district under the reimbursement program. A school district shall allow each classroom teacher in the district who is reimbursed under the reimbursement program to use the funds in the teacher's discretion, except that the funds must be used for the benefit of the district's students. A school district may not use funds received under the reimbursement program to replace local funds used by the district for the same purpose.

(c) The commissioner shall identify state and federal funds available for use under the reimbursement program, including funds subject to the Education Flexibility Partnership Act of 1999 (20 U.S.C. Section 5891a et seq.), and its subsequent amendments, as well as consolidated administrative funds.

(d) The commissioner shall establish the reimbursement program for implementation beginning not later than the 2005-2006 school year. The commissioner may implement the reimbursement program only if funds are specifically appropriated by the legislature for the program or if the commissioner identifies available funds, other than general revenue funds, that may be used for the program.

(e) [Expired pursuant to Acts 2003, 78th Leg., ch. 263 (H.B. 1844), § 1, effective September 1, 2007.]

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 17, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 263 (H.B. 1844), § 1, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(12), effective September 1, 2005 (renumbered from Sec. 21.413).)

Sec. 21.415. Employment Contracts.

(a) A school district shall provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Subchapter O if the district participates in the program.

(b) The district shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.06, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 10, effective September 1, 2009.)

SUBCHAPTER J
STAFF DEVELOPMENT

Sec. 21.451. Staff Development Requirements.

(a) The staff development provided by a school district to an educator other than a principal must be:

(1) conducted in accordance with standards developed by the district; and

(2) designed to improve education in the district.

(a-1) Section 21.3541 and rules adopted under that section govern the professional development provided to a principal.

(b) The staff development described by Subsection (a) must be predominantly campus-based, related to achieving campus performance objectives established under Section 11.253, and developed and approved by the campus-level committee established under Section 11.251.

(c) For staff development under Subsection (a), a school district may use district-wide staff development developed and approved through the district-level decision process under Section 11.251.

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution;

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; and

(D) preventing, identifying, responding to, and reporting incidents of bullying; and

(2) subject to Subsection (e) and to Section 21.3541 and rules adopted under that section, must include training based on scientifically based research, as defined by Section 9101, No Child Left Behind Act of 2001 (20 U.S.C. Section 7801), that:

(A) relates to instruction of students with disabilities; and

(B) is designed for educators who work primarily outside the area of special education.

(e) A school district is required to provide the training described by Subsection (d)(2) to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.

(f) In developing or maintaining the training required by Subsection (d)(2), a school district must consult with persons with expertise in research-based practices for students with disabilities. Persons who may be consulted under this subsection include colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district. This subsection applies to all training required by Subsection (d)(2), regardless of whether the training is provided at the campus or district level.

(g) The staff development may include instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.06, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 766 (S.B. 1727), § 1, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 495 (H.B. 1024), § 1, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 740 (S.B. 451), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1093 (S.B. 1383), § 4, effective June 17, 2011.)

Sec. 21.4511. Professional Development Activities for Teachers and Administrators.

(a) From funds appropriated for that purpose in an amount not to exceed $2.5 million each year, the commissioner may develop and award grants to school districts, regional education service centers, nonprofit organizations, and institutions of higher education for establishing and providing technical assistance and professional development activities in the staff development training of public school teachers and administrators.

(b) The training under this section shall include training relating to implementing curriculum and instruction that is aligned with the foundation curriculum described by Section 28.002(a)(1) and standards and expectations for college readiness, as determined by State Board of Education rule under Section 28.008(d).

(c) The commissioner may give preference to a school district, regional education service center, or institution of higher education conducting professional development activities under this section that applies for a grant in partnership with a state or national organization that has demonstrated success in the development and implementation of high school reform strategies.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 4, effective June 15, 2007.)

Sec. 21.4513. Professional Development Requirements Audit.

(a) Using only available funds and resources from public or private sources, the agency shall periodically conduct an audit of the professional development requirements applicable to educators in this state, including state and federal requirements and requirements imposed by school districts.

(b) Based on audit results, the agency shall seek to eliminate conflicting requirements and consolidate duplicative requirements through the following methods, as appropriate:

(1) taking administrative action;

(2) encouraging school districts to make appropriate changes to district policies; or

(3) recommending statutory changes to the legislature.

(b-1) **[Expires September 1, 2014]** The agency shall complete the initial audit required by Subsection (a) not later than August 1, 2014. This subsection expires September 1, 2014.

(c) The agency shall provide guidance to school districts regarding high-quality professional devel-

opment and the outcomes expected to result from providing that caliber of professional development. (Enacted by Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 7, effective September 1, 2013.)

Sec. 21.452. Developmental Leaves of Absence.

(a) The board of trustees of a school district may grant a developmental leave of absence for study, research, travel, or another suitable purpose to an employee who:

(1) is employed in a position requiring a permanent teaching certificate; and

(2) has served in the same school district at least five consecutive school years.

(b) The board may grant a developmental leave of absence for one school year at one-half salary or for one-half of a school year at full salary paid to the employee in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.

(c) An employee on developmental leave continues to be a member of the Teacher Retirement System of Texas and is entitled to participate in programs, hold memberships, and receive benefits afforded by employment in the school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 21.453. Staff Development Account.

(a) The staff development account is an account in the general revenue fund. The account consists of gifts, grants, donations, appropriations for the purpose of staff development under this subchapter, and any other money transferred by law to the account. Funds in the account may be used only as provided by this section.

(b) The commissioner may allocate funds from the account to regional education service centers to provide staff development resources to school districts that:

(1) are rated academically unacceptable;

(2) have one or more campuses rated as academically unacceptable; or

(3) are otherwise in need of assistance as indicated by the academic performance of students, as determined by the commissioner.

(c) A school district that receives resources under this section must pay to the commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district.

(d) The commissioner may adopt rules governing the allocation and use of funds under this section.
(Enacted by Acts 1999, 76th Leg., ch. 931 (H.B. 2307), § 3, effective August 30, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 3, § 3.04, effective May 31, 2006.)

Sec. 21.454. Mathematics Training.

(a) The commissioner shall develop training materials and other teacher training resources for a school district to use in assisting mathematics teachers in developing:

(1) expertise in the appropriate mathematics curriculum; and

(2) comprehension of the instructional approaches that, through scientific testing, have been proven effective in improving student mathematics skills.

(b) The commissioner shall develop materials and resources under this section in consultation with appropriate faculty members at institutions of higher education.

(c) The commissioner shall make the training materials and other teacher training resources required under Subsection (a) available to mathematics teachers through a variety of mechanisms, including distance learning, mentoring programs, small group inquiries, computer-assisted training, and mechanisms based on trainer-of-trainer models.

(d) The commissioner shall use funds appropriated for the purpose to administer this section.
(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 6, effective September 1, 2001.)

Sec. 21.4541. Mathematics Instructional Coaches Pilot Program.

(a) From funds appropriated for that purpose, the commissioner by rule shall establish a pilot program under which participating school districts and campuses receive grants to provide assistance in developing the content knowledge and instructional expertise of teachers who instruct students in mathematics at the middle school, junior high school, or high school level.

(b) A school district or campus is eligible to participate in the pilot program under this section if the district or campus meets the eligibility criteria established as provided by Section 39.408.

(c) A grant awarded under this section may be used to support intensive instructional coaching and professional development from a service provider approved by the commissioner. Approved service providers may include:

(1) academies and training centers established in conjunction with a Texas Science, Technology, Engineering, and Mathematics (T-STEM) center;

(2) regional education service centers;

(3) institutions of higher education; and

(4) private organizations with significant experience in providing mathematics instruction, as determined by the commissioner.

(d) An instructional coaching or professional development program supported by a grant under this section must demonstrate significant past effectiveness in improving mathematics instruction in middle schools, junior high schools, and high schools serving a significant number of students identified as students at risk of dropping out of school, as described by Section 29.081(d). An instructional coaching or professional development program may include:

(1) providing classes to teachers on effective mathematics instruction;

(2) providing tutoring or mentoring to teachers regarding effective mathematics instruction;

(3) providing incentives to teachers to participate in the program; or

(4) engaging in any other activities determined by the commissioner as likely to improve the instructional skills of teachers providing mathematics instruction.

(e) The commissioner shall adopt rules necessary to implement the pilot program.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 4, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 23, effective June 19, 2009.)

Sec. 21.455. Professional Development Institutes in Mathematics.

(a) The commissioner shall develop and make available professional development institutes for teachers who provide instruction in mathematics to students at the fifth through eighth grade levels.

(b) A professional development institute developed under this section must address:

(1) the underlying mathematical skills required to be taught at the relevant grade levels; and

(2) mathematical instruction techniques that, through scientific testing, have been proven effective.

(c) The commissioner shall develop professional development institutes under this section in consultation with mathematics and science faculty members at institutions of higher education.

(d) The commissioner shall adopt criteria for selection of teachers authorized to attend a professional development institute developed under this section.

(e) From funds appropriated for the purpose, the commissioner shall pay a stipend to each teacher who completes a professional development institute developed under this section. The commissioner shall determine the amount of the stipend paid under this subsection.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 6, effective September 1, 2001.)

Sec. 21.4551. Teacher Reading Academies.

(a) The commissioner shall develop and make available reading academies for teachers who provide instruction to students at the sixth through eighth grade levels.

(b) A reading academy developed under this section must include training in:

(1) for a teacher providing instruction in reading to students at the seventh or eighth grade level:

(A) administration of the reading instrument required by Section 28.006(c-1); and

(B) interpretation of the results of the reading instrument required by Section 28.006(c-1) and strategies, based on scientific research regarding effective reading instruction, for long-term intensive intervention to target identified student needs in word recognition, vocabulary, fluency, and comprehension;

(2) for a teacher providing instruction in reading to students at the sixth, seventh, or eighth grade level:

(A) strategies to be implemented in English language arts and other subject areas for multisyllable word reading, vocabulary development, and comprehension of expository and narrative text;

(B) an adaptation framework that enables teachers to respond to differing student strengths and needs, including adaptations for students of limited English proficiency or students receiving special education services under Subchapter A, Chapter 29;

(C) collaborative strategies to increase active student involvement and motivation to read; and

(D) other areas identified by the commissioner as essential components of reading instruction; and

(3) for a teacher providing instruction in mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level:

(A) strategies for incorporating reading instruction into the curriculum for the subject area taught by the teacher; and

(B) other areas identified by the commissioner.

(c) The commissioner by rule shall require a teacher to attend a reading academy if the teacher provides instruction in reading, mathematics, science, or social studies to students at the sixth, seventh, or eighth grade level at a campus that fails

to satisfy any standard under Section 39.054(e) on the basis of student performance on the reading assessment instrument administered under Section 39.023(a) to students in any grade level at the campus.

(d) The commissioner shall adopt criteria for selection of teachers, other than teachers described by Subsection (c), who may attend a reading academy.

(e) From funds appropriated for that purpose, a teacher who attends a reading academy is entitled to receive a stipend in the amount determined by the commissioner. A stipend received under this subsection is not considered in determining whether a district is paying the teacher the minimum monthly salary under Section 21.402.

(f) On request of the commissioner, regional education service centers shall assist the commissioner and agency with training and other activities relating to the development and operation of reading academies. The commissioner may seek additional assistance from other public and private providers.

(g), (h) [Expired pursuant to Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 4, effective September 1, 2011].

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 4, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 24, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.003, effective September 1, 2011.)

Sec. 21.456. Science Training.

(a) The commissioner shall develop and have approved by the board training materials and other teacher training resources for a school district to use in assisting science teachers in developing:

(1) expertise in the appropriate science curriculum; and

(2) comprehension of the instructional approaches that, through scientific testing, have been proven effective in improving student science skills.

(b) To the extent practicable, the training materials and other teacher training resources required under Subsection (a) shall address instructional approaches designed to reduce any identified disparities in student science performance between groups of students.

(c) The commissioner shall develop materials and resources under this section in consultation with appropriate faculty members at institutions of higher education.

(d) The commissioner shall make the training materials and other teacher training resources required under Subsection (a) available to science teachers through a variety of mechanisms, including distance learning, mentoring programs, small group inquiries, computer-assisted training, and mechanisms based on trainer-of-trainer models.

(e) The commissioner shall use funds appropriated for the purpose to administer this section.

(Enacted by Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 3, effective September 1, 2003.)

Sec. 21.457. Training for Teachers of Students of Limited English Proficiency.

The commissioner shall develop and make available training materials and other teacher training resources to assist teachers in developing the expertise required to enable students of limited English proficiency to meet state performance expectations.

(Enacted by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 6, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(13), effective September 1, 2005 (renumbered from Sec. 21.456).)

Sec. 21.458. Mentors.

(a) Each school district may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

(1) to the extent practicable, teach in the same school;

(2) to the extent practicable, teach the same subject or grade level, as applicable; and

(3) meet the qualifications prescribed by commissioner rules adopted under Subsection (b).

(b) The commissioner shall adopt rules necessary to administer this section, including rules concerning the duties and qualifications of a teacher who serves as a mentor. The rules concerning qualifications must require that to serve as a mentor a teacher must:

(1) complete a research-based mentor and induction training program approved by the commissioner;

(2) complete a mentor training program provided by the district; and

(3) have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance.

(c) From the funds appropriated to the agency for purposes of this section, the commissioner shall adopt rules and provide funding to school districts that assign mentor teachers under this section. Funding provided to districts under this section may be used only for providing:

(1) mentor teacher stipends;

(2) scheduled release time for mentor teachers and the classroom teachers to whom they are

assigned for meeting and engaging in mentoring activities; and

(3) mentoring support through providers of mentor training.

(d) In adopting rules under Subsection (c), the commissioner shall rely on research-based mentoring programs that, through external evaluation, have demonstrated success.

(e) Each year the commissioner shall report to the legislature regarding the effectiveness of school district mentoring programs.

(e-1) **[Expires January 31, 2015]** Not later than November 1, 2013, the governor, lieutenant governor, and speaker of the house of representatives shall form an advisory committee to evaluate the implementation of this section and make recommendations for improvement. The committee shall develop recommended guidelines that align teacher induction and mentoring activities with expectations for new teachers based on teaching practice standards. The agency shall provide administrative support for the committee. The committee shall submit a report of its recommendations to the governor and legislature not later than January 1, 2015. This subsection expires January 31, 2015.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.07, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 796 (S.B. 1290), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1282 (H.B. 2012), § 8, effective September 1, 2013.)

Sec. 21.459. Bible Course Training.

(a) The commissioner shall develop and make available training materials and other teacher training resources for a school district to use in assisting teachers of elective Bible courses in developing:

(1) expertise in the appropriate Bible course curriculum;

(2) understanding of applicable supreme court rulings and current constitutional law regarding how Bible courses are to be taught in public schools objectively as a part of a secular program of education;

(3) understanding of how to present the Bible in an objective, academic manner that neither promotes nor disparages religion, nor is taught from a particular sectarian point of view;

(4) proficiency in instructional approaches that present course material in a manner that respects all faiths and religious traditions, while favoring none; and

(5) expertise in how to avoid devotional content or proselytizing in the classroom.

(b) The commissioner shall develop materials and resources under this section in consultation with appropriate faculty members at institutions of higher education.

(c) The commissioner shall make the training materials and other teacher training resources required under Subsection (a) available to Bible course teachers through access to in-service training.

(d) The commissioner shall use funds appropriated for the purpose to administer this section.

(Enacted by Acts 2007, 80th Leg., ch. 856 (H.B. 1287), § 2, effective June 15, 2007.)

Sec. 21.462. Mathematics, Science, and Technology Teacher Preparation Academies [Renumbered].

Renumbered to Tex. Educ. Code § 61.0766 by Acts 2009, 81st Leg., ch. 852 (S.B. 2262), § 1, effective June 19, 2009.

(Am. Acts 1981, 67th Leg., ch. 498 (S.B. 477), § 1, effective September 1, 1981; repealed by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 58(a)(1), effective May 30, 1995; enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 4, effective June 15, 2007.)

Sec. 21.463. Resources for Teachers of Students with Special Health Needs.

The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for teachers who teach students with special health needs. The agency shall include on the website information about:

(1) the treatment and management of chronic illnesses and how such illnesses impact a student's well-being or ability to succeed in school; and

(2) food allergies that are common among students, including information about preventing exposure to a specific food when necessary to protect a student's health and information about treating a student suffering from an allergic reaction to a food.

(Enacted by Acts 2009, 81st Leg., ch. 628 (H.B. 1322), § 1, effective June 19, 2009.)

SUBCHAPTER K
TEXAS TROOPS TO TEACHERS PROGRAM

Sec. 21.501. Definition.

In this subchapter, "program" means the Texas Troops to Teachers Program.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 2.07(a), effective September 1, 1999.)

Sec. 21.502. Establishment of Program.

The agency shall establish a program to:

(1) assist persons who have served in the armed forces of the United States and are separated from active duty to obtain certification as an elementary or secondary school teacher in this state; and

(2) facilitate the employment of those persons by school districts that have a shortage of teachers.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 2.07(a), effective September 1, 1999.)

Sec. 21.503. Eligibility.

A person is eligible for the program if the person:

(1) has served in the armed forces of the United States;

(2) is honorably discharged, retired, or released from active duty on or after October 1, 1990, after at least six years of continuous active duty service immediately before the discharge, retirement, or release;

(3) has received a baccalaureate or advanced degree from a public or private institution of higher education accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; and

(4) satisfies any other criteria for selection jointly prescribed by the agency and the State Board for Educator Certification.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 2.07(a), effective September 1, 1999.)

Sec. 21.504. Information and Applications.

(a) The agency shall develop an application for the program.

(b) The agency and the State Board for Educator Certification shall distribute the applications and information regarding the program.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.505. Selection of Participants.

(a) The agency shall select persons to participate in the program on the basis of applications submitted to the agency.

(b) Each application must be submitted:

(1) in the form and contain the information the agency requires; and

(2) in a timely manner.

(c) An application is considered to be submitted in a timely manner for purposes of Subsection (b)(2) if the application is submitted:

(1) not later than October 5, 1999, in the case of an applicant discharged, retired, or released from active duty before January 19, 1999; or

(2) except as provided by Subdivision (1), not later than the first anniversary of the date of the applicant's discharge, retirement, or release from active duty.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.506. Limitation on Implementation.

The agency may not select a person to participate in the program unless the agency has sufficient state appropriations to pay the stipend provided by Section 21.509 at the time of the selection.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.507. Preferences.

(a) In selecting persons to participate in the program, the agency shall give preference to a person who:

(1) has significant educational or military experience in science, mathematics, or engineering and agrees to seek employment as a teacher in one of those subjects in a public elementary or secondary school in this state; or

(2) has significant educational or military experience in a field other than science, mathematics, or engineering identified by the agency as a field important for state educational objectives and agrees to seek employment as a teacher in a subject related to that field in a public elementary or secondary school in this state.

(b) The commissioner shall determine the level of experience considered significant for purposes of this section.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.508. Agreement.

A person selected to participate in the program must enter into a written agreement with the agency under which the person agrees to:

(1) obtain, within the period the agency by rule requires, certification as an elementary or secondary school teacher in this state; and

(2) accept, during the first school year that begins after the date the person becomes certified, an offer of full-time employment as an elementary or secondary school teacher with a school district in this state.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.509. Stipend.

The agency shall pay to each participant in the program a stipend of $5,000.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.510. Reimbursement.

(a) A participant in the program who fails to obtain certification or employment as required in the agreement under Section 21.508 or who voluntarily leaves or is terminated for cause from the employment after teaching in a public elementary or secondary school in this state for less than five school years shall reimburse the agency for the portion of the stipend that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the five years of required service.

(b) The obligation to reimburse the agency under this section is, for all purposes, a debt to the state. A discharge in bankruptcy under Title 11, United States Code, does not release a participant from the obligation to reimburse the agency. The amount owed bears interest at the rate equal to the highest rate being paid by the United States on the day the reimbursement is determined to be due for securities that have maturities of 90 days or less, and the interest accrues from the day the participant receives notice of the amount due.

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.508 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at a public or private institution of higher education approved by the State Board for Educator Certification;

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

(d) A participant is excused from reimbursement under Subsection (a) if:

(1) the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician; or

(2) the agency waives reimbursement in the case of extreme hardship to the participant.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999.)

Sec. 21.511. Rules.

The commissioner shall adopt rules to implement this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.07(a), effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 7, § 7.001, effective September 1, 2009.)

SUBCHAPTER L
TEACH FOR TEXAS PILOT PROGRAM RELATING TO ALTERNATIVE CERTIFICATION

Sec. 21.551. Purposes.

The purposes of the alternative certification Teach for Texas Pilot Program are to:

(1) attract to the teaching profession persons who have expressed interest in teaching and to support the certification of those persons as teachers;

(2) recognize the importance of the certification process governed by the State Board for Educator Certification under Subchapter B, which requires verification of competence in subject area and professional knowledge and skills;

(3) encourage the creation and expansion of educator preparation programs that recognize the knowledge and skills gained through previous educational and work-related experiences and that are delivered in a manner that recognizes individual circumstances, including the need to remain employed full-time while enrolled in the Teach for Texas Pilot Program; and

(4) provide annual stipends to postbaccalaureate teacher certification candidates.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 8, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 21, § 21.001(16), effective September 1, 2001 (renumbered from Sec. 21.501).)

Sec. 21.552. Program Established.

The State Board for Educator Certification by rule shall establish the Teach for Texas Pilot Program consistent with the purposes provided by Section 21.551.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 8, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 21, §§ 21.001(16), 21.002(4), effective September 1, 2001 (renumbered from Sec. 21.502).)

Sec. 21.553. Financial Incentives.

(a) The pilot program must offer to participants financial incentives, including tuition assistance and loan forgiveness. In offering a financial incentive, the State Board for Educator Certification shall:

(1) require a contract between each participant who accepts a financial incentive and the State Board for Educator Certification under which the participant is obligated to teach in a public school in this state for a stated period after certification;

(2) provide financial incentives in proportion to the length of the period the participant is obligated by contract to teach after certification; and

(3) give special financial incentives to a participant who agrees in the contract to teach in an underserved area.

(b) Financial incentives may be paid only from funds appropriated specifically for that purpose and from gifts, grants, and donations solicited or accepted by the State Board for Educator Certification for that purpose.

(c) The State Board for Educator Certification shall propose rules establishing criteria for awarding financial incentives under this section, including criteria for awarding financial incentives if there are more participants than funds available to provide the financial incentives.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 8, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 21, § 21.001(16), effective September 1, 2001 (renumbered from Sec. 21.503).)

SUBCHAPTER M
CAREERS TO CLASSROOMS PROGRAM

Sec. 21.601. Definitions.

In this subchapter:

(1) "Institution of higher education" has the meaning assigned by 20 U.S.C. Section 1001 and its subsequent amendments.

(2) "Program" means the Careers to Classrooms Program.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.602. Establishment of Program.

The agency shall establish a program to:

(1) assist persons in obtaining certification in this state as elementary or secondary school teachers or educational aides; and

(2) facilitate the employment of those persons by school districts in this state that:

(A) receive grants under 20 U.S.C. Section 6311 et seq. and its subsequent amendments on the basis of having in the district concentrations of children who are educationally disadvantaged; and

(B) have a shortage of:

(i) qualified teachers, particularly science, mathematics, computer science, or engineering teachers; or

(ii) educational aides.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.603. Eligibility.

A person is eligible for the program if:

(1) in the case of a person planning to become certified in this state as a public elementary or secondary school teacher, the person has received a baccalaureate or advanced degree from an institution of higher education; and

(2) in the case of a person planning to become certified in this state as an educational aide, the person has received an associate, baccalaureate, or advanced degree from an institution of higher education.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.604. Information and Applications.

(a) The agency shall develop an application for the program.

(b) The agency and the State Board for Educator Certification shall distribute the applications and information regarding the program.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.605. Selection of Participants.

(a) The agency shall select persons to participate in the program on the basis of applications submitted to the agency.

(b) Each application must be submitted:

(1) in the form and contain the information the agency requires; and

(2) in a timely manner.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.606. Preferences.

(a) In selecting persons to participate in the program who are planning to become certified in this state as teachers, the agency shall give preference to a person who:

(1) has substantial, demonstrated career experience in science, mathematics, computer science, or engineering and agrees to seek employment as

a teacher in one of those subjects in a public elementary or secondary school in this state; or

(2) has substantial, demonstrated career experience in a field other than science, mathematics, computer science, or engineering that is identified by the agency as a field important for state educational objectives and agrees to seek employment as a teacher in a subject related to that field in a public elementary or secondary school in this state.

(b) The commissioner shall determine the level of experience considered substantial for purposes of this section.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.607. Agreement.

(a) A person selected to participate in the program who is planning to become certified as a teacher must enter into a written agreement with the agency under which the person agrees to:

(1) obtain, within the period the agency by rule requires, certification in this state as an elementary or secondary school teacher; and

(2) accept, during the first school year that begins after the date the person becomes certified, an offer of full-time employment for at least two school years as an elementary or secondary school teacher with a school district described by Sections 21.602(2)(A) and (B)(i).

(b) A person selected to participate in the program who is planning to become certified as an educational aide must enter into a written agreement with the agency under which the person agrees to:

(1) obtain, within the period the agency by rule requires, certification in this state as an educational aide; and

(2) accept, during the first school year that begins after the date the person becomes certified, an offer of full-time employment for at least two school years as an educational aide with a school district described by Sections 21.602(2)(A) and (B)(ii).

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.608. Stipend.

The agency shall pay to each participant in the program a stipend equal to the lesser of:

(1) $5,000; or

(2) an amount equal to the total costs of the type described by Paragraphs (1), (2), (3), (8), and (9), 20 U.S.C. Section 1087ll, and its subsequent amendments, incurred by the person while obtaining certification in this state as a teacher or educational aide and employment as a teacher or educational aide at a public elementary or secondary school in this state.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.609. Reimbursement.

(a) A participant in the program who fails to obtain certification or employment as required by the agreement under Section 21.607 or who voluntarily leaves or is terminated for cause from employment after teaching in a public elementary or secondary school in this state for less than two school years shall reimburse the agency for the portion of the stipend that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the two school years of required service.

(b) The obligation to reimburse the agency under this section is, for all purposes, a debt to the state. A discharge in bankruptcy under Title 11, United States Code, does not release a participant from the obligation to reimburse the agency. The amount owed bears interest at the rate equal to the highest rate being paid by the United States on the day the reimbursement is determined to be due for securities that have maturities of 90 days or less, and the interest accrues from the day the participant receives notice of the amount due.

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.607 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education approved by the State Board for Educator Certification;

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

(d) A participant is excused from reimbursement under Subsection (a) if the participant becomes permanently totally disabled as established by affidavit of a qualified physician. The agency may waive

reimbursement for some or all of the amount owed in the case of extreme hardship to the participant.
(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.610. Grants to Facilitate Placement.

(a) The agency may enter into an agreement as prescribed by Subsection (b) with a school district described by Section 21.602(2) that first employs as a full-time elementary or secondary school teacher or educational aide after certification a person participating in the program.

(b) An agreement under this section must provide that:

(1) the school district agrees to employ the person full-time for at least two school years at a specified salary in a district school that:

(A) serves a concentration of children who are educationally disadvantaged; and

(B) has an exceptional need for teachers or educational aides, as applicable; and

(2) the state shall pay the district for that person $5,000 each year for not more than two years.

(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

Sec. 21.611. Rules.

The commissioner shall adopt rules to implement this subchapter.
(Enacted by Acts 2001, 77th Leg., ch. 808 (H.B. 704), § 1, effective September 1, 2001.)

SUBCHAPTER N
AWARDS FOR STUDENT ACHIEVEMENT PROGRAM [REPEALED]

Sec. 21.651. Definition [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

Sec. 21.652. Establishment of Program [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

Sec. 21.653. Campus Eligibility [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

Sec. 21.654. Campus Incentive Plan [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

Sec. 21.655. Amount of Program Grant Award [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

Sec. 21.656. Incentive Payments to Classroom Teachers [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.08, effective May 31, 2006.)

Sec. 21.657. Distribution of Other Program Funds [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1229 (H.B. 2399), § 1, effective June 15, 2007.)

Sec. 21.658. Rules [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(1), effective September 1, 2009.
(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

SUBCHAPTER O
EDUCATOR EXCELLENCE INNOVATION PROGRAM

Sec. 21.701. Definition.

In this subchapter, "program" means the educator excellence innovation program.
(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.08, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.7011. Purposes.

The purposes of the educator excellence innovation program are to:

(1) systemically transform:

(A) educator quality and effectiveness through improved and innovative school district-level recruitment, preparation, hiring, induction, evaluation, professional development, strategic compensation, career pathways, and retention; and

(B) district administrative practices to improve quality, effectiveness, and efficiency; and

(2) use the enhanced educator and administrative quality and effectiveness to improve student learning and student academic performance, especially the learning and academic performance of students enrolled in districts that:

(A) receive federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.); and

(B) have at a majority of district campuses a student enrollment of which at least 50 percent is educationally disadvantaged.

(Enacted by Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.702. Educator Excellence Innovation Program.

(a) The commissioner by rule shall establish the program under which school districts, in accordance with local educator excellence innovation plans approved by the commissioner, receive competitive program grants from the agency for carrying out the purposes of the program as described by Section 21.7011.

(b) In establishing the program, the commissioner shall adopt program guidelines in accordance with this subchapter for a school district to follow in developing a local educator excellence innovation plan under Section 21.704.

(c) In adopting rules under this section, the commissioner shall include rules governing eligibility for and participation by an open-enrollment charter school in the program.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.08, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), §§ 4, 5, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.703. Educator Excellence Innovation Fund; Amount of Grant Award.

(a) Each state fiscal year, the commissioner shall deposit an amount determined by the General Appropriations Act to the credit of the educator excellence innovation fund in the general revenue fund. Each state fiscal year, the agency shall use money in the educator excellence innovation fund to provide each school district approved on a competitive basis under this subchapter with a grant in an amount determined by the agency in accordance with commissioner rule.

(b) Not later than April 1 of each state fiscal year, the agency shall provide written notice to each school district that will be provided a grant under this section that the district will be provided the grant and the amount of that grant.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.08, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 11, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 6, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.704. Local Educator Excellence Innovation Plans.

(a) In a school district that intends to participate in the program, the district-level planning and decision-making committee established under Subchapter F, Chapter 11, shall develop a local educator excellence innovation plan for the district. The local educator excellence innovation plan may provide for all campuses in the district to participate in the program or only certain campuses selected by the district-level committee.

(b) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(2), effective September 1, 2009.]

(c) A school district must submit a local educator excellence innovation plan to the agency for approval.

(c-1) A local educator excellence innovation plan must be designed to carry out each purpose of the program as described by Section 21.7011.

(d) The agency may approve only a local educator excellence innovation plan that meets program guidelines adopted by the commissioner under Section 21.702 and that satisfies this section and Section 21.706. From among the local educator excellence innovation plans submitted and depending on the amount of money available for distribution in the educator excellence innovation fund, the agency

shall approve plans that most comprehensively and innovatively address the purposes of the program as described by Section 21.7011 so that the effectiveness of various plans in achieving those purposes can be compared and evaluated.

(e) A school district whose local educator excellence innovation plan is approved by the agency to receive a program grant under this subchapter may renew the plan for three consecutive school years without resubmitting the plan to the agency for approval. A school district may amend a local educator excellence innovation plan for approval by the agency for each school year the district receives a program grant.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.08, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 12, 105(a)(2), effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 7, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.705. Award Payments [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 9, effective June 14, 2013.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1262 (H.B. 709), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 13, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.004, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.706. Innovation Plan Payments; Authorized General and Specific Uses.

A school district may use grant funds awarded to the district under this subchapter only to carry out purposes of the program as described by Section 21.7011, in accordance with the district's local educator excellence innovation plan, which may include the following specific methods or procedures:

(1) implementation and administration of a high-quality mentoring program for teachers in a teacher's first three years of classroom teaching using mentors who meet the qualifications prescribed by Section 21.458(b);

(2) implementation of a teacher evaluation system using multiple measures that include:

(A) the results of classroom observation, which may include student comments;

(B) the degree of student educational growth and learning; and

(C) the results of teacher self-evaluation;

(3) to the extent permitted under Subchapter C, Chapter 25, restructuring of the school day or school year to provide for embedded and collaborative learning communities for the purpose of professional development;

(4) establishment of an alternative teacher compensation or retention system; and

(5) implementation of incentives designed to reduce teacher turnover.

(Enacted by Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 8, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.7061. Implementation Flexibility.

(a) Notwithstanding any other provision of this code and subject to Subsection (b), a school district may apply to the commissioner in writing in accordance with commissioner rule for a waiver to exempt the district or one or more district campuses from Section 21.352(a)(2)(B), 21.353, 21.354(d), 21.3541(g), 21.451, or 21.458, as specified in the waiver application. The district's application for a waiver under this section must demonstrate that the waiver is necessary to carry out purposes of the program as described by Section 21.7011, in accordance with the district's local educator excellence innovation plan.

(b) Before an application for a waiver is submitted to the commissioner under Subsection (a), the application specifying the provision for which the waiver is sought must be approved by a vote of:

(1) a majority of the members of the school district board of trustees; and

(2) a majority of the educators employed at each campus for which the waiver is sought.

(b-1) Voting for purposes of Subsection (b) must be conducted:

(1) in accordance with commissioner rule;

(2) during the school year; and

(3) in a manner that ensures that all educators entitled to vote have a reasonable opportunity to participate in the voting.

(c) The commissioner shall grant or deny an application under this section based on standards adopted by commissioner rule. The commissioner shall notify in writing each district that applies for a waiver under this section whether the application

has been granted or denied not later than April 1 of the year in which the application is submitted.

(d) Neither the board of trustees of a school district nor the district superintendent may compel a waiver of rights under this section.

(e) A waiver granted under this section expires when the waiver is no longer necessary to carry out the purposes of the program as described by Section 21.7011, in accordance with the district's local educator excellence innovation plan.

(Enacted by Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 8, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 948 (H.B. 1751), § 10 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 21.707. Rules.

The commissioner shall adopt rules necessary to administer this subchapter.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.08, effective May 31, 2006.)

SUBCHAPTER Q
TEXAS TEACHER RESIDENCY PROGRAM

Sec. 21.801. Establishment of Program.

(a) Not later than March 1, 2014, the commissioner of higher education shall, through a competitive selection process, establish a Texas Teacher Residency Program at a public institution of higher education that has developed a commitment to investing in teacher education.

(b) The public institution of higher education shall form a partnership with an area school district or open-enrollment charter school to provide employment to residents in the program.

(c) The program must be designed to:

(1) award teaching residents participating in the program a master's degree; and

(2) lead to certification under Subchapter B for participating teaching residents who are not already certified teachers.

(d) The public institution of higher education shall:

(1) reward faculty instructing in the teacher residency program;

(2) identify faculty who can prepare teachers to impact student achievement in high-need schools;

(3) provide institutional support of faculty who work with the teacher residency program by providing time to teach the courses and valuing the faculty's contributions with rewards in the university tenure process; and

(4) develop and implement a program that acknowledges and elevates the significance and professional nature of teaching at the primary and secondary levels.

(Enacted by Acts 2013, 83rd Leg., ch. 949 (H.B. 1752), § 1, effective September 1, 2013.)

Sec. 21.802. Program Components.

The teacher residency program shall include:

(1) competitive admission requirements with multiple criteria;

(2) integration of pedagogy and classroom practice;

(3) rigorous master's level course work, while undertaking a guided apprenticeship at the partner area school district or open-enrollment charter school;

(4) a team mentorship approach to expose teaching residents to a variety of teaching methods, philosophies, and classroom environments;

(5) clear criteria for the selection of mentor teachers based on measures of teacher effectiveness and the appropriate subject area knowledge;

(6) measures of appropriate progress through the program;

(7) the collaboration with one or more regional education service centers or local nonprofit education organizations to provide professional development or other structured learning experiences for teaching residents;

(8) a livable stipend for teaching residents;

(9) a post-completion commitment by teaching residents to serve four years at schools that are difficult to staff;

(10) job placement assistance for teaching residents;

(11) support for teaching residents for not less than one year following the resident's completion of the program through the provision of mentoring, professional development, and networking opportunities;

(12) demonstration of the integral role and responsibilities of the partner area school district or open-enrollment charter school in fulfilling the purpose of the program; and

(13) monetary or in-kind contributions provided by the public institution of higher education, partner area school district, or open-enrollment charter school to demonstrate that the program may be sustained in the absence of grant funds or state appropriations.

(Enacted by Acts 2013, 83rd Leg., ch. 949 (H.B. 1752), § 1, effective September 1, 2013.)

Sec. 21.803. Program Eligibility.

To be eligible to be admitted and hired as a

teaching resident under the program, an individual must:

(1) have received the individual's initial teaching certificate not more than two years before applying for a residency and must have less than 18 months of full-time equivalency teaching experience as a certified teacher; or

(2) hold a bachelor's degree and:

(A) be a mid-career professional from outside the field of education, and have strong content knowledge or a record of achievement; or

(B) be a noncertified educator such as a substitute teacher or teaching assistant.

(Enacted by Acts 2013, 83rd Leg., ch. 949 (H.B. 1752), § 1, effective September 1, 2013.)

Sec. 21.804. Selection of Participants.

The teaching residency program shall establish criteria for selection of individuals to participate in the program. The selection criteria must include:

(1) a demonstration of comprehensive subject area knowledge or a record of accomplishment in the field or subject area to be taught;

(2) strong verbal and written communication skills, which may be demonstrated by performance on appropriate tests; and

(3) attributes linked to effective teaching, which may be determined by interviews or performance assessments.

(Enacted by Acts 2013, 83rd Leg., ch. 949 (H.B. 1752), § 1, effective September 1, 2013.)

Sec. 21.805. Rules.

The commissioner of higher education shall adopt rules as necessary to implement this subchapter.

(Enacted by Acts 2013, 83rd Leg., ch. 949 (H.B. 1752), § 1, effective September 1, 2013.)

Sec. 21.806. Authority to Accept Certain Funds.

(a) The commissioner of higher education may solicit and accept gifts, grants, and donations from public and private entities to use for the purposes of this subchapter.

(b) The teacher residency program may be established and maintained only if sufficient funds are available under this section for that purpose.

(Enacted by Acts 2013, 83rd Leg., ch. 949 (H.B. 1752), § 1, effective September 1, 2013.)

CHAPTER 22
SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS

Subchapter A. Rights, Duties, and Benefits

Subchapter B. Civil Immunity

Subchapter C. Criminal History Records

Subchapter D. Health Care Supplementation

SUBCHAPTER A
RIGHTS, DUTIES, AND BENEFITS

Sec. 22.001. Salary Deductions for Professional Dues.

(a) A school district employee is entitled to have an amount deducted from the employee's salary for membership fees or dues to a professional organization. The employee must:

(1) file with the district a signed written request identifying the organization and specifying the number of pay periods per year the deductions are to be made; and

(2) inform the district of the total amount of the fees and dues for each year or have the organization notify the district of the amount.

(b) The district shall deduct the total amount of the fees or dues for a year in equal amounts per pay period for the number of periods specified by the employee. The deductions shall be made until the employee requests in writing that the deductions be discontinued.

(c) The school district may charge an administrative fee for making the deduction. A fee imposed for making a salary deduction under this section may not exceed either the actual administrative cost of making the deduction or the lowest fee the district charges for similar salary deductions, whichever is less.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 22.002. Assignment, Transfer, or Pledge of Compensation.

(a) In this section, "school employee" means any person employed by a school district in an executive, administrative, or clerical capacity or as a superintendent, principal, teacher, or instructor.

(b) Any school employee's assignment, pledge, or transfer, as security for indebtedness, of any interest in or part of the employee's salary or wages then due or that may become due under an existing contract of employment is enforceable only:

(1) if, before or at the time of execution, delivery, or acceptance of an assignment, pledge, or transfer, written approval is obtained in accordance with the policy of the employing school district; and

(2) to the extent that the indebtedness it secures is a valid and enforceable obligation.

(c) A school district shall honor an assignment, pledge, or transfer fulfilling the conditions of Subsection (b) without incurring any liability to the school employee executing the assignment, pledge, or transfer. Payment to any assignee, pledgee, or transferee in accordance with the terms of the instrument constitutes payment to or for the account of the assignor, pledgor, or transferor. An assignment, pledge, or transfer is enforceable only to the extent of salary due or that may become due during continuation of the assignor's employment as a school employee.

(d) Venue for any suit against the employer of a school employee to enforce an assignment, pledge, or transfer of salary is in the county where the employing school is located.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 22.003. Minimum Personal Leave Program.

(a) A state minimum personal leave program consisting of five days per year personal leave with no limit on accumulation and transferable among districts shall be provided for school district employees. School districts may provide additional personal leave beyond this minimum. The board of trustees of a school district may adopt a policy governing an employee's use of personal leave granted under this subsection, except that the policy may not restrict:

(1) the purposes for which the leave may be used; or

(2) the order in which an employee may use the state minimum personal leave and any additional personal leave provided by the school district.

(b) In addition to all other days of leave provided by this section or by the school district, an employee of a school district who is physically assaulted during the performance of the employee's regular duties is entitled to the number of days of leave necessary to recuperate from all physical injuries sustained as a result of the assault. At the request of an employee, the school district must immediately assign an employee to assault leave and, on investigation of the claim, may change the assault leave status and charge the leave against the employee's accrued

personal leave or against an employee's pay if insufficient accrued personal leave is available. Days of leave taken under this subsection may not be deducted from accrued personal leave. The period provided by this subsection may not extend more than two years beyond the date of the assault. Notwithstanding any other law, assault leave policy benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so that the employee's total compensation from temporary income benefits and assault leave policy benefits equals 100 percent of the employee's weekly rate of pay.

(c) For purposes of Subsection (b), an employee of a school district is physically assaulted if the person engaging in the conduct causing injury to the employee:

(1) could be prosecuted for assault; or

(2) could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

(c-1) Any informational handbook a school district provides to employees in an electronic or paper form or makes available by posting on the district website must include notification of an employee's rights under Subsection (b) in the relevant section of the handbook. Any form used by a school district through which an employee may request leave under this section must include assault leave under Subsection (b) as an option.

(d) A school district employee with available personal leave under this section is entitled to use the leave for compensation during a term of active military service. This subsection applies to any personal or sick leave available under former law or provided by local policy of a school district, including a home-rule school district.

(e) A school district, including a home-rule school district, may adopt a policy providing for the paid leave of absence of employees taking leave for active military service as part of the consideration of employment by the district.

(f) A public school employee who retains any sick leave accumulated under former Section 13.904(a), as that section existed on January 1, 1995, is entitled to use the sick leave provided under that section or the personal leave provided under Subsection (a) in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 936 (S.B. 780), § 1, effective June 18, 1997; am. Acts 2001, 77th Leg., ch. 1015 (H.B. 1188), § 1, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 971 (S.B. 1669), § 2, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 19 (S.B. 522), § 1, effective May 12, 2009; am. Acts 2009, 81st Leg., ch. 379 (H.B. 1470), § 1, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 19 (S.B. 522), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Sec. 22.004. Group Health Benefits for School Employees.

(a) A district shall participate in the uniform group coverage program established under Chapter 1579, Insurance Code, as provided by Subchapter D of that chapter.

(b) A district that does not participate in the program described by Subsection (a) shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or under a policy of insurance or group contract issued by an insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization under Chapter 843, Insurance Code. The coverage must meet the substantive coverage requirements of Chapter 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366, Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state. The coverage must include major medical treatment but may exclude experimental procedures. In this subsection, "major medical treatment" means a medical, surgical, or diagnostic procedure for illness or injury. The coverage may include managed care or preventive care and must be comparable to the basic health coverage provided under Chapter 1551, Insurance Code. The board of trustees of the Teacher Retirement System of Texas shall adopt rules to determine whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection. The rules must provide for consideration of the following factors concerning the district's coverage in determining whether the district's coverage is comparable to the basic health coverage specified by this subsection:

(1) the deductible amount for service provided inside and outside of the network;

(2) the coinsurance percentages for service provided inside and outside of the network;

(3) the maximum amount of coinsurance payments a covered person is required to pay;

(4) the amount of the copayment for an office visit;

(5) the schedule of benefits and the scope of coverage;

(6) the lifetime maximum benefit amount; and

(7) verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance or is provided by a risk pool authorized under Chapter 172, Local Government Code, or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.

(c) The cost of the coverage provided under the program described by Subsection (a) shall be paid by the state, the district, and the employees in the manner provided by Subchapter F, Chapter 1579, Insurance Code. The cost of coverage provided under a plan adopted under Subsection (b) shall be shared by the employees and the district using the contributions by the state described by Subchapter F, Chapter 1579, Insurance Code, or Subchapter D.

(d) Each district shall report the district's compliance with this section to the executive director of the Teacher Retirement System of Texas not later than March 1 of each even-numbered year in the manner required by the board of trustees of the Teacher Retirement System of Texas. For a district that does not participate in the program described by Subsection (a), the report must be available for review, together with the policy or contract for the group health coverage plan, at the central administrative office of each campus in the district and be posted on the district's Internet website if the district maintains a website, must be based on the district group health coverage plan in effect during the current plan year, and must include:

(1) appropriate documentation of:

(A) the district's contract for group health coverage with a provider licensed to do business in this state by the Texas Department of Insurance or a risk pool authorized under Chapter 172, Local Government Code; or

(B) a resolution of the board of trustees of the district authorizing a self-insurance plan for district employees and of the district's review of district ability to cover the liability assumed;

(2) the schedule of benefits;

(3) the premium rate sheet, including the amount paid by the district and employee;

(4) the number of employees covered by the health coverage plan offered by the district;

(5) information concerning the ease of completing the report, as required by the executive director of the Teacher Retirement System of Texas; and

(6) any other information considered appropriate by the executive director of the Teacher Retirement System of Texas.

(e) [Repealed by Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(1), effective September 1, 2013.]

(f) A school district that does not participate in the program described by Subsection (a) may not contract with an insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization to issue a policy or contract under this section, or with any person to assist the school district in obtaining or managing the policy or contract unless, before the contract is entered into, the insurer, company, organization, or person provides the district with an audited financial statement showing the financial condition of the insurer, company, organization, or person.

(g) An insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization that issues a policy or contract under this section and any person that assists the school district in obtaining or managing the policy or contract for compensation shall provide an annual audited financial statement to the school district showing the financial condition of the insurer, company, organization, or person.

(h) An audited financial statement provided under this section must be made in accordance with rules adopted by the commissioner of insurance or with generally accepted accounting principles, as applicable.

(i) Notwithstanding any other provision of this section, a district participating in the uniform group coverage program established under Chapter 1579, Insurance Code, may not make group health coverage available to its employees under this section after the date on which the program of coverages provided under Chapter 1579, Insurance Code, is implemented.

(j) This section does not preclude a district that is participating in the uniform group coverage program established under Chapter 1579, Insurance Code, from entering into contracts to provide optional insurance coverages for the employees of the district.

(k) Notwithstanding any other law, an employee of a district participating in the uniform group coverage program under Subsection (a) or providing group health coverage under Subsection (b) whose resignation is effective after the last day of an instructional year is entitled to participate or be enrolled in the uniform group coverage plan or the group health coverage through the earlier of:

(1) the first anniversary of the date participation in or coverage under the uniform group coverage plan or the group health coverage was first made available to district employees for the last instructional year in which the employee was employed by the district; or

(2) the last calendar day before the first day of the instructional year immediately following the last instructional year in which the employee was employed by the district.

(*l*) If an employee's resignation is effective after the last day of an instructional year, the district may not diminish or eliminate the amount of a contribution available to the employee under Chapter 1581, Insurance Code, before the last date on which the employee is entitled to participation or enrollment under Subsection (k).

(m) Notwithstanding any other law, group health benefit coverage provided by or offered through a district to district employees under any law is subject to the requirements of Sections 1501.102—1501.105, Insurance Code. This section applies to all group health benefit coverage provided by or offered through a district to district employees, including:

(1) a standard health benefit plan issued under Chapter 1507, Insurance Code; and

(2) health and accident coverage provided through a risk pool established under Chapter 172, Local Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 37, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 28, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 3, § 3.18, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 56, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 10A, § 10A.511, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 386 (S.B. 1448), § 1, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 11, § 11.108, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.01, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 4, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 108 (H.B. 973), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 14, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 103 (H.B. 1364), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 370 (S.B. 155), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(1), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 370 (S.B. 155), § 2 provides: "The change in law made by this Act applies beginning with the 2012-2013 school year."

Sec. 22.005. Health Care Plan and Fund.

(a) The board of trustees of a school district may establish a health care plan for employees of the district and dependents of employees.

(b) In implementing the health care plan, the board shall establish a fund to pay, as authorized under the plan, all or part of the actual costs for hospital, surgical, medical, dental, or related health care incurred by employees of the district or any dependent whose participation in the program is being supported by deductions from the salary of an employee. Under the plan, the fund also may be used to pay the costs of administering the fund. The fund consists of money contributed by the school district and money deducted from salaries of employees for dependent or employee coverage. Money for the fund may not be deducted from the salary of a school district employee unless the employee authorizes the deduction in writing. The plan shall attempt to protect the school district against unanticipated catastrophic individual loss, or unexpectedly large aggregate loss, by securing individual stop-loss coverage, or aggregate stop-loss coverage, or both, from a commercial insurer.

(c) The board may amend or cancel the district's health care plan at any regular or special meeting of the board. If the plan is canceled, any valid claim against the fund for payment of health care costs resulting from illness or injury occurring during the time the plan was in effect shall be paid out of the fund. If the fund is insufficient to pay the claim, the costs shall be paid out of other available school district funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 22.006. Discrimination Based on Jury Service Prohibited.

(a) A school district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against a school district employee because of the employee's compliance with a summons to appear as a juror.

(b) For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a school district shall pay the employee the employee's normal daily compensation.

(c) An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror.

(Enacted by Acts 1999, 76th Leg., ch. 656 (H.B. 269), § 1, effective August 30, 1999.)

Sec. 22.007. Incentives for Early Retirement.

A district may not offer or provide a financial or other incentive to an employee of the district to

encourage the employee to retire from the Teacher Retirement System of Texas.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 5, effective September 1, 2005.)

Sec. 22.011. Requiring or Coercing Employees to Make Charitable Contributions.

(a) A school district board of trustees or school district employee may not directly or indirectly require or coerce any school district employee to:

(1) make a contribution to a charitable organization or in response to a fund-raiser; or

(2) attend a meeting called for the purpose of soliciting charitable contributions.

(b) A school district board of trustees or school district employee may not directly or indirectly require or coerce any school district employee to refrain from:

(1) making a contribution to a charitable organization or in response to a fund-raiser; or

(2) attending a meeting called for the purpose of soliciting charitable contributions.

(Enacted by Acts 2011, 82nd Leg., ch. 284 (H.B. 1682), § 1, effective June 17, 2011.)

SUBCHAPTER B
CIVIL IMMUNITY

Sec. 22.051. Definition; Other Immunity.

(a) In this subchapter, "professional employee of a school district" includes:

(1) a superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a school district;

(2) a teacher employed by a company that contracts with a school district to provide the teacher's services to the district;

(3) a student in an education preparation program participating in a field experience or internship;

(4) a school bus driver certified in accordance with standards and qualifications adopted by the Department of Public Safety of the State of Texas;

(5) a member of the board of trustees of an independent school district; and

(6) any other person employed by a school district whose employment requires certification and the exercise of discretion.

(b) The statutory immunity provided by this subchapter is in addition to and does not preempt the common law doctrine of official and governmental immunity.

(Enacted by Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.01, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 17, effective June 14, 2013.)

Sec. 22.0511. Immunity from Liability.

(a) A professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students.

(b) This section does not apply to the operation, use, or maintenance of any motor vehicle.

(c) In addition to the immunity provided under this section and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seq.), as amended. Nothing in this subsection shall be construed to limit or abridge any immunity or protection afforded an individual under state law. For purposes of this subsection, "individual" includes a person who provides services to private schools, to the extent provided by federal law.

(d) A school district may not by policy, contract, or administrative directive:

(1) require a district employee to waive immunity from liability for an act for which the employee is immune from liability under this section; or

(2) require a district employee who acts in good faith to pay for or replace property belonging to a student or other person that is or was in the possession of the employee because of an act that is incident to or within the scope of the duties of the employee's position of employment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.01, effective September 1, 2003 (renumbered from Sec. 22.051); am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003 (renumbered from Sec. 22.051); am. Acts 2007, 80th Leg., ch. 116 (S.B. 370), § 1, effective May 17, 2007.)

Sec. 22.0512. Immunity from Disciplinary Proceedings for Professional Employees.

(a) A professional employee of a school district may not be subject to disciplinary proceedings for

the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8).

(c) This section does not prohibit a school district from:

(1) enforcing a policy relating to corporal punishment; or

(2) notwithstanding Subsection (a), bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment.

(Enacted by Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003.)

Sec. 22.0513. Notice of Claim.

(a) Not later than the 90th day before the date a person files a suit against a professional employee of a school district, the person must give written notice to the employee of the claim, reasonably describing the incident from which the claim arose.

(b) A professional employee of a school district against whom a suit is pending who does not receive written notice, as required by Subsection (a), may file a plea in abatement not later than the 30th day after the date the person files an original answer in the court in which the suit is pending.

(c) The court shall abate the suit if the court, after a hearing, finds that the person is entitled to an abatement because notice was not provided as required by this section.

(d) An abatement under Subsection (c) continues until the 90th day after the date that written notice is given to the professional employee of a school district as provided by Subsection (a).

(Enacted by Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.01, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003.)

Sec. 22.0514. Exhaustion of Remedies.

A person may not file suit against a professional employee of a school district unless the person has exhausted the remedies provided by the school district for resolving the complaint.

(Enacted by Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.01, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003.)

Sec. 22.0515. Limitation on Damages.

The liability of a professional employee of a school district or of an individual that is entitled to any immunity and other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seq.), as amended, for an act incident to or within the scope of duties of the employee's position of employment may not exceed $100,000. The limitation on liability provided by this subsection does not apply to any attorney's fees or court costs that may be awarded against the professional employee under Section 22.0517.

(Enacted by Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003.)

Sec. 22.0516. Alternative Dispute Resolution.

A court in which a judicial proceeding is being brought against a professional employee of a school district may refer the case to an alternative dispute resolution procedure as described by Chapter 154, Civil Practice and Remedies Code.

(Enacted by Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.01, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003.)

Sec. 22.0517. Recovery of Attorney's Fees in Action Against Professional Employee.

In an action against a professional employee of a school district involving an act that is incidental to or within the scope of duties of the employee's position of employment and brought against the employee in the employee's individual capacity, the employee is entitled to recover attorney's fees and court costs from the plaintiff if the employee is found immune from liability under this subchapter.

(Enacted by Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.01, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 1, effective September 1, 2003.)

Sec. 22.052. Administration of Medication by School District Employees or Volunteer Professionals; Immunity from Liability.

(a) On the adoption of policies concerning the administration of medication to students by school district employees, the school district, its board of trustees, and its employees are immune from civil liability from damages or injuries resulting from the administration of medication to a student if:

(1) the school district has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student; and

(2) when administering prescription medication, the medication is administered either:

(A) from a container that appears to be:

(i) the original container; and

(ii) properly labeled; or

(B) from a properly labeled unit dosage container filled by a registered nurse or another qualified district employee, as determined by district policy, from a container described by Paragraph (A).

(b) The board of trustees may allow a licensed physician or registered nurse who provides volunteer services to the school district and for whom the district provides liability insurance to administer to a student:

(1) nonprescription medication; or

(2) medication currently prescribed for the student by the student's personal physician.

(c) This section may not be construed as granting immunity from civil liability for injuries resulting from gross negligence.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 2, effective September 1, 2003.)

Sec. 22.053. School District Volunteers.

(a) A volunteer who is serving as a direct service volunteer of a school district is immune from civil liability to the same extent as a professional employee of a school district under Section 22.0511.

(b) In this section, "volunteer" means a person providing services for or on behalf of a school district, on the premises of the district or at a school-sponsored or school-related activity on or off school property, who does not receive compensation in excess of reimbursement for expenses.

(c) This section does not limit the liability of a person for intentional misconduct or gross negligence.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.02, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 3, effective September 1, 2003.)

Sec. 22.054. Liability of Certain Institutions of Higher Education.

(a) A private or independent institution of higher education is not liable for damages arising from an act or omission of a person associated with the institution, including an employee or student, arising in the course and scope of that person's activities as a volunteer in a primary or secondary school.

(b) A school district may agree to provide or pay for attorney services for the defense of a private or independent institution of higher education if:

(1) the institution is assisting in the provision of volunteer services to primary or secondary schools in the district;

(2) a claim for damages is brought against the institution in relation to those services; and

(3) the board of trustees of the school district reasonably believes that the institution is not liable for the claim under Subsection (a).

(c) In this section:

(1) "Private or independent institution of higher education" has the meaning assigned by Section 61.003.

(2) "Volunteer" means a person rendering services for or on behalf of a public school who does not receive compensation from the district in excess of reimbursement for expenses. The person may receive compensation from a person other than the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 22.055. Frivolous Suit Against Employee.

A court may award costs and reasonable attorney's fees to a school district employee acting under color of employment to the same extent that a court may award costs and attorney's fees to a school district or school district officer under Section 11.161.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
CRIMINAL HISTORY RECORDS

Sec. 22.081. Definitions.

In this subchapter:

(1) "Department" means the Department of Public Safety.

(2) "National criminal history record information" means criminal history record information obtained from the department under Subchapter F, Chapter 411, Government Code, and from the Federal Bureau of Investigation under Section 411.087, Government Code.

(3) "Private school" means a school that:

(A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) is not operated by a governmental entity.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 6, effective June 15, 2007.)

Sec. 22.082. Access to Criminal History Records by State Board for Educator Certification.

The State Board for Educator Certification shall subscribe to the criminal history clearinghouse as provided by Section 411.0845, Government Code, and may obtain from any law enforcement or criminal justice agency all criminal history record information and all records contained in any closed criminal investigation file that relate to a specific applicant for or holder of a certificate issued under Subchapter B, Chapter 21.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 6, effective June 15, 2007.)

Sec. 22.083. Access to Criminal History Records of Employees by Local and Regional Education Authorities.

(a) A school district, open-enrollment charter school, or shared services arrangement shall obtain criminal history record information that relates to a person who is not subject to a national criminal history record information review under this subchapter and who is an employee of:

(1) the district or school; or

(2) a shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

(a-1) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information from:

(1) the department;

(2) a law enforcement or criminal justice agency; or

(3) a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).

(a-2) A shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who is not subject to Subsection (a) and whom the shared services arrangement intends to employ in any capacity.

(b) A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person whom the school or service center intends to employ in any capacity; or

(2) an employee of or applicant for employment by a person that contracts with the school or service center to provide services, if:

(A) the employee or applicant has or will have continuing duties related to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

(c), (d) [Repealed by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 27, effective June 15, 2007.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 20, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), §§ 7, 8, 27, effective June 15, 2007.)

Sec. 22.0831. National Criminal History Record Information Review of Certified Educators.

(a) In this section, "board" means the State Board for Educator Certification.

(b) This section applies to a person who is an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who is employed by or is an applicant for employment by a school district, open-enrollment charter school, or shared services arrangement.

(c) The board shall review the national criminal history record information of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review.

(d) The board shall place an educator's certificate on inactive status for failure to comply with a deadline for submitting information required under this section.

(e) The board may allow a person who is applying for a certificate under Subchapter B, Chapter 21, and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.

(f) The board may propose rules to implement this section, including rules establishing:

(1) deadlines for a person to submit fingerprints and photographs in compliance with this section; and

(2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.

(g) [Expired pursuant to Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective October 1, 2011.]
(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007.)

Sec. 22.0832. National Criminal History Record Information Review of Certain Open-Enrollment Charter School Employees.

(a) The agency shall review the national criminal history record information of an employee of an open-enrollment charter school to whom Section 12.1059 applies in the same manner as the State Board for Educator Certification reviews certified educators under Section 22.0831. If the agency determines that, based on information contained in an employee's criminal history record information, the employee would not be eligible for educator certification under Subchapter B, Chapter 21, the agency shall notify the open-enrollment charter school in writing that the person may not be employed by the school or serve in a capacity described by Section 12.1059.

(b) An open-enrollment charter school must provide the agency with any information requested by the agency to enable the agency to complete a review under Subsection (a). Failure of an open-enrollment charter school to provide information under this subsection is a material violation of the school's charter.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007.)

Sec. 22.0833. National Criminal History Record Information Review of Noncertified Employees.

(a) This section applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by:

(1) a school district or open-enrollment charter school; or

(2) a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

(b) A person to whom this section applies must submit to a national criminal history record information review under this section before being employed or serving in a capacity described by Subsection (a).

(c) Before or immediately after employing or securing the services of a person to whom this section applies, a school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs.

(d) The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code, and shall subscribe to the criminal history record information of the person.

(f) The school district, open-enrollment charter school, or shared services arrangement may require a person to pay any fees related to obtaining criminal history record information under this section.

(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The agency shall examine the criminal history record information of the person and notify the district, school, or shared services arrangement if the person may not be hired or must be discharged as provided by Section 22.085.

(h) The agency, the State Board for Educator Certification, school districts, open-enrollment charter schools, and shared services arrangements may coordinate as necessary to ensure that criminal history reviews authorized or required under this subchapter are not unnecessarily duplicated.

(i) The department in coordination with the commissioner may adopt rules necessary to implement this section.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007.)

Sec. 22.0834. Criminal History Record Information Review of Certain Contract Employees.

(a) This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

(1) the employee or applicant has or will have continuing duties related to the contracted services; and

(2) the employee or applicant has or will have direct contact with students.

(b) A person to whom Subsection (a) applies must submit to a national criminal history record information review under this section before being employed or serving in a capacity described by that subsection.

(c) Before or immediately after employing or securing the services of a person to whom Subsection (a) applies, the entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs. The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(d) An entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall obtain all criminal history record information that relates to a person to whom Subsection (a) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The entity shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.

(e) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) In the event of an emergency, a school district may allow a person to whom Subsection (a) or (g) applies to enter school district property if the person is accompanied by a district employee. A school district may adopt rules regarding an emergency situation under this subsection.

(g) An entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Subsection (b) if:

(1) the employee has continuing duties related to the contracted services; and

(2) the employee has direct contact with students.

(h) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (g) applies.

(i) An entity shall certify to a school district that it has received all criminal history record information required by Subsection (g).

(j) The commissioner may adopt rules as necessary to implement this section.

(k) The requirements of this section apply to an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement and any subcontractor of the entity.

(*l*) A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to an employee to whom Subsection (a) applies. If a contracting or subcontracting entity determines that Subsection (a) does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Subsection (a) did not apply to the employee continue to exist throughout the time that the contracted services are provided.

(m) A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors.

(n) A subcontracting entity must certify to the school district, open-enrollment charter school, or shared services arrangement and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee to whom Subsection (a) applies and has obtained similar written certifications from the subcontracting entity's subcontractors.

(o) A contracting or subcontracting entity may not permit an employee to whom Subsection (a) applies to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Section 22.085(a).

(p) In this section:

(1) "Contracting entity" means an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide services to the school district, open-enrollment charter school, or shared services arrangement.

(2) "Subcontracting entity" means an entity that contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide services to a school district, open-enrollment charter school, or shared services arrangement.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 6.11, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 649 (S.B. 1042), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 696 (H.B. 398), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 649 (S.B. 1042), § 2 and Acts 2011, 82nd Leg., ch. 696 (H.B. 398), § 2 provides: "Subsection (o), Section 22.0834, Education Code, as amended by this Act, applies to the provision of services at a public school by an employee of a contracting or subcontracting entity without regard to whether the contract or subcontract under which the person is employed was entered into before, on, or after the effective date of this Act [June 17, 2011]."

Sec. 22.0835. Access to Criminal History Records of Student Teachers and Volunteers by Local and Regional Education Authorities.

(a) A school district, open-enrollment charter school, or shared services arrangement shall obtain from the department and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to:

(1) a person participating in an internship consisting of student teaching to receive a teaching certificate; or

(2) a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district, school, or shared services arrangement.

(b) A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who volunteers or has indicated, in writing, an intention to serve as a volunteer with the school or service center.

(c) A person to whom Subsection (a) or (b) applies must provide to the school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government.

(d) A person to whom Subsection (a) applies may not perform any student teaching or volunteer duties until all requirements under Subsections (a) and (c) have been satisfied.

(e) Subsections (a) and (c) do not apply to a person who volunteers or is applying to volunteer with a school district, open-enrollment charter school, or shared services arrangement if the person:

(1) is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;

(2) will be accompanied by a school district employee while on a school campus; or

(3) is volunteering for a single event on the school campus.

(f) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (e) applies.

(g) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may require a student teacher, volunteer, or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007.)

Sec. 22.0836. National Criminal History Record Information Review of Substitute Teachers.

(a) This section applies to a person who is a substitute teacher for a school district, open-enrollment charter school, or shared services arrangement.

(b) A person to whom this section applies must submit to a national criminal history record information review under this section.

(c) A school district, open-enrollment charter school, or shared services arrangement shall send or ensure that a person to whom this section applies sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs.

(d) The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) The school district, open-enrollment charter school, or shared services arrangement may require a person to pay any fees related to obtaining criminal history record information under this section.

(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The agency shall examine the criminal history record information and certification records of the person and notify the district, school, or shared services arrangement if the person:

(1) may not be hired or must be discharged as provided by Section 22.085; or

(2) may not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

(h) The commissioner may adopt rules to implement this section, including rules establishing deadlines for a school district, open-enrollment charter school, or shared services arrangement to require a person to whom this section applies to submit fingerprints and photographs in compliance with this section and the circumstances under which a person may not continue to be employed as a substitute teacher.

(i) [Expired pursuant to Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective October 1, 2011.]

(j) The department in coordination with the commissioner may adopt rules necessary to implement this section.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007.)

Sec. 22.0837. Fee for National Criminal History Record Information.

The agency by rule shall require a person submitting to a national criminal history record information review under Section 22.0832, 22.0833, or 22.0836 to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an applicant for certification under Subchapter B, Chapter 21, for a national criminal history record information review under Section 22.0831. The agency or the department may require an entity authorized to collect information for a national criminal history record information review to collect the fee required under this section and to remit the funds collected to the agency.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 9, effective June 15, 2007.)

Sec. 22.08391. Confidentiality of Information.

(a) Information collected about a person to comply with this subchapter, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

(1) may not be released except:

(A) to comply with this subchapter;

(B) by court order; or

(C) with the consent of the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552, Government Code; and

(3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

(b) Any criminal history record information received by the State Board for Educator Certification as provided by this subchapter is subject to Section 411.090(b), Government Code.

(c) Any criminal history record information received by the agency as provided by this subchapter is subject to Section 411.0901(b), Government Code.

(d) Any criminal history record information received by a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by this subchapter is subject to Section 411.097(d), Government Code.

(Enacted by Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.05, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.06 provides: "The change in law made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article [September 1, 2009]."

Sec. 22.084. Access to Criminal History Records of School Bus Drivers, Bus Monitors, and Bus Aides.

(a) Except as provided by Subsections (c) and (d), a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person employed by the person as a bus driver; or

(2) a person the person intends to employ as a bus driver.

(b) Except as provided by Subsections (c) and (d), a person that contracts with a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement to provide transportation services shall submit to the district, school, service center, or shared services arrangement the name and other identification data required to obtain criminal history record information of each person described by Subsection (a). If the district, school, service center, or shared services arrangement obtains information that a person described by Subsection (a) has been convicted of a felony or a misdemeanor involving moral turpitude, the district, school, service center, or shared services arrangement shall inform the chief personnel officer of the person with whom the district, school, service center, or shared services arrangement has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the open-enrollment charter school, or the chief executive officer of the private school or shared services arrangement.

(c) A commercial transportation company that contracts with a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement to provide transportation services may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person employed by the commercial transportation company as a bus driver, bus monitor, or bus aide; or

(2) a person the commercial transportation company intends to employ as a bus driver, bus monitor, or bus aide.

(d) If the commercial transportation company obtains information that a person employed or to be employed by the company has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the open-enrollment charter school, or the chief executive officer of the private school or shared services arrangement. Subsections (a) and (b) do not apply if information is obtained as provided by Subsection (c).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 1, effective September 1, 1997.)

Sec. 22.085. Employees and Applicants Convicted of Certain Offenses.

(a) A school district, open-enrollment charter school, or shared services arrangement shall discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that:

(1) the employee or applicant has been convicted of:

(A) a felony offense under Title 5, Penal Code;

(B) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(C) an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

(2) at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(b) Subsection (a) does not apply if the employee or applicant for employment committed an offense under Title 5, Penal Code and:

(1) the date of the offense is more than 30 years before:

(A) the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007, in the case of a person employed by a school district, open-enrollment charter school, or shared services arrangement as of that date; or

(B) the date the person's employment will begin, in the case of a person applying for employment with a school district, open-enrollment charter school, or shared services arrangement after the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007; and

(2) the employee or applicant for employment satisfied all terms of the court order entered on conviction.

(c) A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by an entity that contracts with the district, school, or shared services arrangement to serve at the district or school or for the shared services arrangement if the district, school, or shared services arrangement obtains information described by Subsection (a) through a criminal history record information review concerning the employee or applicant. A school district, open-enrollment charter school, or shared services arrangement must ensure that an entity that the district, school,

or shared services arrangement contracts with for services has obtained all criminal history record information as required by Section 22.0834.

(d) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the State Board for Educator Certification or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

(e) The State Board for Educator Certification may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described by Subsection (a).

(f) Each school year, the superintendent of a school district or chief operating officer of an open-enrollment charter school shall certify to the commissioner that the district or school has complied with this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 10, effective June 15, 2007.)

Sec. 22.086. Liability for Reporting Offenses.

The State Board for Educator Certification, a school district, an open-enrollment charter school, a private school, a regional education service center, a shared services arrangement, or an employee of the board, district, school, service center, or shared services arrangement is not civilly or criminally liable for making a report required under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 22.087. Notification to State Board for Educator Certification.

The superintendent of a school district or the director of an open-enrollment charter school, private school, regional education service center, or shared services arrangement shall promptly notify the State Board for Educator Certification in writing if the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 11, effective June 15, 2007.)

SUBCHAPTER D
HEALTH CARE SUPPLEMENTATION

Sec. 22.101. Definitions.

In this subchapter:

(1) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986.

(2) "Employee" means an active, contributing member of the Teacher Retirement System of Texas who:

(A) is employed by a district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center;

(B) is not a retiree eligible for coverage under the program established under Chapter 1575, Insurance Code;

(C) is not eligible for coverage by a group insurance program under Chapter 1551 or 1601, Insurance Code; and

(D) is not an individual performing personal services for a district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, or regional education service center as an independent contractor.

(3) "Participating charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, that participates in the program established under Chapter 1579, Insurance Code.

(4) "Regional education service center" means a regional education service center established under Chapter 8.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005; enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.102. Authority to Adopt Rules; Other Authority.

(a) The agency may adopt rules to implement this subchapter.

(b) The agency may enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005

and by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.103. Designation of Compensation As Health Care Supplementation.

(a) An employee of a school district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, or regional education service center may elect to designate a portion of the employee's compensation to be used as health care supplementation under this subchapter.

(b) The amount designated under this section may not exceed the amount permitted under applicable federal law.

(c) This section does not apply to an employee who is not covered by a cafeteria plan or who is not eligible to pay health care premiums through a premium conversion plan.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005 and by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.104. Funds Held in Trust.

All funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the employees on whose behalf the district, school, or service center received the funds.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005 and by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.105. Written Election Required.

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation under this subchapter. An election under this section must be made at the same time at which the employee elects to participate in a cafeteria plan, if applicable.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005 and by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.106. Use of Designated Compensation.

An employee may use compensation designated for health care supplementation under this subchapter for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005 and by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.107. Wage Increase for Support Staff.

(a) A school district shall pay each full-time district employee, other than an administrator or an employee subject to the minimum salary schedule under Section 21.402, an amount at least equal to $500.

(b) A school district shall pay each part-time district employee, other than an administrator, an amount at least equal to $250.

(c) A school district employee entitled to a wage increase under this section may elect to receive a portion of the person's annual wages as health care supplementation as provided by this subchapter.

(d) A payment under this section is in addition to wages the district would otherwise pay the employee during the school year.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005 and by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 6, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.09, effective May 31, 2006.)

Sec. 22.108. Distribution by School [Deleted].

Deleted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.09, effective May 31, 2006.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005.)

Sec. 22.109. Use of Supplemental Compensation [Renumbered].

Renumbered to Tex. Educ. Code § 22.106, by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.09, effective May 31, 2006.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005.)

Sec. 22.110. Supplemental Compensation [Deleted].

Deleted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.09, effective May 31, 2006.
(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 18, § 18.02, effective September 1, 2005.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 22.901. Unlawful Inquiry into Religious Affiliation.

(a) A person employed or maintained to obtain or aid in obtaining positions for public school employees may not directly or indirectly ask about, orally or in writing, the religion or religious affiliation of anyone applying for employment in the public schools of this state.

(b) A person who violates Subsection (a) is subject to a civil penalty of not less than $100 nor more than $500. The aggrieved applicant or the applicant's assignee may bring suit for imposition of the civil penalty in the county of plaintiff's or defendant's residence.

(c) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class B misdemeanor.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 22.902. Instruction Related to Cardiopulmonary Resuscitation and Use of Automated External Defibrillator.

(a) A school district shall annually make available to district employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator, as defined by Section 779.001, Health and Safety Code.

(b) The instruction provided in the use of an automated external defibrillator must meet guidelines for automated external defibrillator training approved under Section 779.002, Health and Safety Code.

(c) Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other school employee specified by the commissioner and each student who serves as an athletic trainer must participate in the instruction in the use of an automated external defibrillator. A person described by this subsection must receive and maintain certification in the use of an automated external defibrillator from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

(d) The commissioner shall adopt rules as necessary to implement this section.

(e) This subsection applies only to a private school that receives an automated external defibrillator from the agency or receives funding from the agency to purchase or lease an automated external defibrillator. A private school shall adopt a policy under which the school makes available to school employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator. The policy must comply with the requirements prescribed by this section and commissioner rules adopted under this section, including the requirements prescribed by Subsection (c).
(Enacted by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 3, effective June 15, 2007.)

SUBTITLE E
STUDENTS AND PARENTS

CHAPTER 25
ADMISSION, TRANSFER, AND ATTENDANCE

Subchapter A. Admission and Enrollment

Subchapter B. Assignments and Transfers

SUBCHAPTER A
ADMISSION AND ENROLLMENT

Sec. 25.001. Admission.

(a) A person who, on the first day of September of any school year, is at least five years of age and under 21 years of age, or is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma is entitled to the benefits of the available school fund for that year. Any other person enrolled in a prekindergarten class under Section 29.153 is entitled to the benefits of the available school fund.

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought, and may admit a person who is at least 21 years of age and under 26 years of age for the purpose of completing the requirements for a high school diploma, if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) the person has established a separate residence under Subsection (d);

(5) the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

(7) the person resides at a residential facility located in the district;

(8) the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed; or

(9) the person does not reside in the school district but the grandparent of the person:

(A) resides in the school district; and

(B) provides a substantial amount of after-school care for the person as determined by the board.

(b-1) A person who is 21 years of age or older and is admitted by a school district for the purpose stated in Subsection (b) is not eligible for placement in a disciplinary alternative education program or a juvenile justice alternative education program if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in conduct that would otherwise require such placement, the district shall revoke admission of the student into the public schools of the district.

(b-2) A person who is 21 years of age or older who is admitted by a school district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. Nothing in this subsection prevents a student described by this subsection from attending a school-sponsored event that is open to the public as a member of the public.

(c) The board of trustees of a school district or the board's designee may require evidence that a person is eligible to attend the public schools of the district at the time the board or its designee considers an application for admission of the person. The board of trustees or its designee shall establish minimum proof of residency acceptable to the district. The board of trustees or its designee may make reasonable inquiries to verify a person's eligibility for admission.

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students. The board of trustees is not required to admit a person under this subsection if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:

(A) removal to a disciplinary alternative education program; or

(B) expulsion;

(2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or

(3) has been convicted of a criminal offense and is on probation or other conditional release.

(e) A school district may request that the commissioner waive the requirement that the district admit a foreign exchange student who meets the conditions of Subsection (b)(6). The commissioner shall respond to a district's request not later than the 60th day after the date of receipt of the request. The commissioner shall grant the request and issue a waiver effective for a period not to exceed three years if the commissioner determines that admission of a foreign exchange student would:

(1) create a financial or staffing hardship for the district;

(2) diminish the district's ability to provide high quality educational services for the district's domestic students; or

(3) require domestic students to compete with foreign exchange students for educational resources.

(f) A child placed in foster care by an agency of the state or by a political subdivision shall be permitted to attend the public schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by the school district.

(g) A student enrolled in a primary or secondary public school who is placed in the conservatorship of the Department of Family and Protective Services and at a residence outside the attendance area for the school or outside the school district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition.

(h) In addition to the penalty provided by Section 37.10, Penal Code, a person who knowingly falsifies information on a form required for enrollment of a student in a school district is liable to the district if the student is not eligible for enrollment in the district but is enrolled on the basis of the false information. The person is liable, for the period during which the ineligible student is enrolled, for the greater of:

(1) the maximum tuition fee the district may charge under Section 25.038; or

(2) the amount the district has budgeted for each student as maintenance and operating expenses.

(i) A school district may include on an enrollment form notice of the penalties provided by Section 37.10, Penal Code, and of the liability provided by Subsection (h) for falsifying information on the form.

(j) For the purposes of this subchapter, the board of trustees of a school district by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under an order of a court.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1019 (S.B. 247), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.08, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 164 (H.B. 25), § 2, effective May 27, 2005; am. Acts 2005, 79th Leg., ch. 920 (H.B. 283), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 850 (H.B. 1137), § 1, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.002, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 9, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 12(b) provides: "The changes in law made by this Act to the Education Code apply beginning with the 2013-2014 school year."

Sec. 25.0011. Certain Incarcerated Children.

(a) For purposes of Section 25.001, a person is not considered to reside in a school district if:

(1) the person is incarcerated in a private juvenile detention facility in the district as a result of the order of a court in another state; and

(2) the person resided in another state or country immediately before incarceration in the facility.

(b) A school district may provide educational services to a person described by Subsection (a) if the district is fully compensated for the cost of the services through payment of tuition for the person by the operator of the juvenile detention facility or other person having lawful control of the person in an amount equal to the actual cost of educating the person.

(c) For purposes of this section, "private juvenile detention facility" means a juvenile detention facility that is not operated by a governmental entity.

(Enacted by Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 30, effective September 1, 1999.)

Sec. 25.002. Requirements for Enrollment.

(a) If a parent or other person with legal control of a child under a court order enrolls the child in a public school, the parent or other person or the school district in which the child most recently attended school shall furnish to the school district:

(1) the child's birth certificate or another document suitable as proof of the child's identity;

(2) a copy of the child's records from the school the child most recently attended if the child has been previously enrolled in a school in this state or another state; and

(3) a record showing that the child has the immunizations as required under Section 38.001, in the case of a child required under that section to be immunized, proof as required by that section showing that the child is not required to be immunized, or proof that the child is entitled to provisional admission under that section and under rules adopted under that section.

(a-1) Information a school district furnishes under Subsections (a)(1) and (2) must be furnished by the district not later than the 10th working day after the date a request for the information is received by the district. Information a parent or other person with legal control of a child under a court order furnishes under Subsections (a)(1) and (2) must be furnished by the parent or other person not later than the 30th day after the date a child is enrolled in a public school. If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

(b) If a child is enrolled under a name other than the child's name as it appears in the identifying document or records, the school district shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying document or records and the name under which the child is enrolled. The information in the notice is confidential and may be released only to a law enforcement agency.

(c) If the information required by Subsection (a) is not furnished to the district within the period provided by that subsection, the district shall notify the police department of the municipality or sheriff's department of the county in which the district is located and request a determination of whether the child has been reported as missing.

(d) When accepting a child for enrollment, the school district shall inform the parent or other

person enrolling the child that presenting a false document or false records under this section is an offense under Section 37.10, Penal Code, and that enrollment of the child under false documents subjects the person to liability for tuition or costs under Section 25.001(h).

(e) A person commits an offense if the person enrolls a child in a public school and fails to furnish an identifying document or record relating to the child on the request of a law enforcement agency conducting an investigation in response to a notification under Subsection (c). An offense under this subsection is a Class B misdemeanor.

(f) Except as otherwise provided by this subsection, for a child to be enrolled in a public school, the child must be enrolled by the child's parent or by the child's guardian or other person with legal control of the child under a court order. A school district shall record the name, address, and date of birth of the person enrolling a child.

(g) A school district shall accept a child for enrollment in a public school without the documentation required by Subsection (a) if the Department of Protective and Regulatory Services has taken possession of the child under Chapter 262, Family Code. The Department of Protective and Regulatory Services shall ensure that the documentation required by Subsection (a) is furnished to the school district not later than the 30th day after the date the child is enrolled in the school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 34, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 234 (H.B. 1050), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 164 (H.B. 25), § 3, effective May 27, 2005.)

Sec. 25.0021. Use of Legal Surname.

In each public school a student must be identified by the student's legal surname as that name appears:

(1) on the student's birth certificate or other document suitable as proof of the student's identity; or

(2) in a court order changing the student's name.

(Enacted by Acts 2001, 77th Leg., ch. 1300 (H.B. 1276), § 1, effective September 1, 2001.)

Sec. 25.0022. Food Allergy Information Requested Upon Enrollment.

(a) In this section, "severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

(b) On enrollment of a child in a public school, a school district shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order:

(1) disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety; and

(2) specify the food to which the child is allergic and the nature of the allergic reaction.

(c) A school district shall maintain the confidentiality of information provided under this section, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Section 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(d) Except as provided by Subsections (e) and (f), information regarding a child's food allergy, regardless of how it is received by the school or school district, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the school district.

(e) If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the school district.

(f) A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the school district, including a notation that the child's student records indicate that a parent has notified the school district of the child's possible food allergy.

(Enacted by Acts 2011, 82nd Leg., ch. 1276 (H.B. 742), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1276 (H.B. 742), § 2 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 25.003. Tuition for Certain Children from Other States.

(a) Notwithstanding any other provision of this code, a school district shall charge tuition for a child who resides at a residential facility and whose maintenance expenses are paid in whole or in part by another state or the United States.

(b) A tuition charge under this section must be submitted to the commissioner for approval.

(c) The attendance of the child is not counted for purposes of allocating state funds to the district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.09, effective September 1, 1999.)

Sec. 25.0031. Tuition for Students Holding Certain Student Visas.

(a) Notwithstanding any other provision of this code, if a student is required, as a condition of obtaining or holding the appropriate United States student visa, to pay tuition to the school district or open-enrollment charter school that the student attends to cover the cost of the student's education provided by the district or charter school, the district or charter school shall accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student's education for the period of the student's attendance at school in the district or at the charter school.

(b) The commissioner shall, for purposes of Subsection (a), develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education. A school district or open-enrollment charter school may not accept tuition in an amount greater than the amount computed under the commissioner's guidelines unless the commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the district or charter school.

(c) Notwithstanding any other provision of this code, the attendance of a student for whom a school district or open-enrollment charter school accepts tuition under this section is not counted for purposes of allocating state funds to the district or charter school.
(Enacted by Acts 2013, 83rd Leg., ch. 523 (S.B. 453), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 523 (S.B. 453), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 25.004. Tuition for Certain Military Dependents Prohibited.

A school district may not charge tuition for the attendance of a student who is domiciled in another state and resides in military housing that is located in the district but is exempt from taxation by the district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 526 (H.B. 2143), § 1, effective September 11, 2001.)

Sec. 25.005. Reciprocity Agreements Regarding Military Personnel and Dependents.

(a) To facilitate the transfer of military personnel and their dependents to and from the public schools of this state, the agency shall pursue reciprocity agreements governing the terms of those transfers with other states that are not parties to the Interstate Compact on Educational Opportunity for Military Children adopted under Chapter 162.

(b) A reciprocity agreement must:

(1) address procedures for:

(A) transferring student records;

(B) awarding credit for completed course work; and

(C) permitting a student to satisfy the requirements of Section 39.025 through successful performance on comparable end-of-course or other exit-level assessment instruments administered in another state; and

(2) include appropriate criteria developed by the agency.

(Enacted by Acts 2001, 77th Leg., ch. 1073 (H.B. 2125), § 1, effective September 1, 2001; Acts 2003, 78th Leg., ch. 149 (S.B. 652), § 24, effective May 27, 2003; Acts 2003, 78th Leg., ch. 445 (H.B. 591), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 3, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 8 (S.B. 90), § 2, effective May 5, 2009.)

Sec. 25.006. Transition Assistance for Military Dependents.

(a) The legislature finds that:

(1) school-age dependents of military personnel are faced with numerous transitions during their formative years; and

(2) military dependents who move from one school to another during the high school years are faced with special challenges to learning and future achievement.

(b) In recognition of the challenges faced by military dependents and the importance of military families to our community and economy, the agency shall assist the transition of military students from one school to another by:

(1) improving the timely transfer of student records;

(2) developing systems to ease student transition during the first two weeks of enrollment at a new school;

(3) promoting practices that foster student access to extracurricular programs;

(4) establishing procedures to lessen the adverse impact of student moves to a new school

after the end of the student's junior year of high school;

(5) encouraging or maintaining partnerships between military bases and affected school districts;

(6) encouraging school districts to provide services for military students in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study; and

(7) providing other assistance as identified by the agency.

(c) The agency shall collect data each year from school districts and open-enrollment charter schools through the Public Education Information Management System (PEIMS) relating to the enrollment of military-connected students. The data relating to the enrollment of military-connected students under this section:

(1) must include the number of active duty military-connected students and the number of National Guard or reserve military-connected students enrolled in the school district or open-enrollment charter school on a date at the beginning of the school year specified by the agency and a date at the end of the school year specified by the agency; and

(2) may not be used for purposes of determining a campus or district performance rating under Section 39.054.

(d) In this section, "military-connected student" means a student enrolled in a school district or open-enrollment charter school who is a dependent of a member of:

(1) the United States military serving in the Army, Navy, Air Force, Marine Corps, or Coast Guard on active duty;

(2) the Texas National Guard; or

(3) a reserve force of the United States military.

(Enacted by Acts 2005, 79th Leg., ch. 164 (H.B. 25), § 1, effective May 27, 2005; am. Acts 2013, 83rd Leg., ch. 173 (H.B. 525), § 1, effective May 25, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 173 (H.B. 525), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 25.007. Transition Assistance for Students in Substitute Care.

(a) The legislature finds that:

(1) students in substitute care are faced with numerous transitions during their formative years; and

(2) students in substitute care who move from one school to another are faced with special challenges to learning and future achievement.

(b) In recognition of the challenges faced by students in substitute care, the agency shall assist the transition of substitute care students from one school to another by:

(1) ensuring that school records for a student in substitute care are transferred to the student's new school not later than the 10th working day after the date the student begins enrollment at the school;

(2) developing systems to ease transition of a student in substitute care during the first two weeks of enrollment at a new school;

(3) developing procedures for awarding credit, including partial credit if appropriate, for course work, including electives, completed by a student in substitute care while enrolled at another school;

(4) promoting practices that facilitate access by a student in substitute care to extracurricular programs, summer programs, credit transfer services, electronic courses provided under Chapter 30A, and after-school tutoring programs at nominal or no cost;

(5) establishing procedures to lessen the adverse impact of the movement of a student in substitute care to a new school;

(6) entering into a memorandum of understanding with the Department of Family and Protective Services regarding the exchange of information as appropriate to facilitate the transition of students in substitute care from one school to another;

(7) encouraging school districts and open-enrollment charter schools to provide services for a student in substitute care in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study;

(8) requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for a student in substitute care by a school previously attended by the student;

(9) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 688]** requiring school districts to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:

(A) requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Section 29.003;

(B) admission, review, and dismissal committee meetings;

(C) manifestation determination reviews required by Section 37.004(b);

(D) any disciplinary actions under Chapter 37 for which parental notice is required;

(E) citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;

(F) reports of restraint and seclusion required by Section 37.0021; and

(G) use of corporal punishment as provided by Section 37.0011; and

(9) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1354]** providing other assistance as identified by the agency;

(10) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 688]** providing other assistance as identified by the agency.

(10) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1354]** developing procedures for allowing a student in substitute care who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year;

(11) ensuring that a student in substitute care who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district, has the student's course credit accrual and personal graduation plan reviewed; and

(12) ensuring that a student in substitute care who is in grade 11 or 12 be provided information regarding tuition and fee exemptions under Section 54.366 for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit.

(Enacted by Acts 2009, 81st Leg., ch. 850 (S.B. 2248), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 10, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 850 (S.B. 2248), § 3 provides: "This Act applies beginning with the 2009—2010 school year."

Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 12(b) provides: "The changes in law made by this Act to the Education Code apply beginning with the 2013—2014 school year."

Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 5 provides: "This Act applies beginning with the 2013—2014 school year."

Sec. 25.008. Enrollment in Summer School Course by Person Not Enrolled in District.

(a) Except as provided by Subsection (b), a school district shall permit a person who is eligible under Section 25.001 to attend school in the district but who is not enrolled in school in the district to enroll in a district summer school course on the same basis as a district student, including:

(1) satisfaction of any course eligibility requirement; and

(2) payment of any fee authorized under Section 11.158 that is charged in connection with the course.

(b) Subsection (a) does not apply to enrollment in a program under Section 29.088, 29.090, or 29.098 or in a similar intensive program.

(Enacted by Acts 2013, 83rd Leg., ch. 344 (H.B. 2137), § 1, effective June 14, 2013.)

SUBCHAPTER B
ASSIGNMENTS AND TRANSFERS

Sec. 25.031. Assignments and Transfers in Discretion of Governing Board.

In conformity with this subchapter, the board of trustees of a school district or the board of county school trustees or a school employee designated by the board may assign and transfer any student from one school facility or classroom to another within its jurisdiction.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.032. Basis for Assignment or Transfer.

The board of trustees of a school district, the board of county school trustees, or the person acting for the board must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.033. Assignment or Transfer on Petition of Parent.

The parent or person standing in parental relation to any student may by petition in writing either:

(1) request the assignment or transfer of the student to a designated school or to a school to be designated by the board; or

(2) file objections to the assignment of the student to the school to which the student has been assigned.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.034. Hearing; Action on Petition; Appeal.

(a) On receiving a petition under Section 25.033, the board of trustees of the school district or the board of county school trustees shall:

(1) if a hearing is not requested, act on the petition not later than the 30th day after the date the petition is submitted and notify the petitioner of the board's conclusion; or

(2) if a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the date the petition is submitted.

(b) If a hearing is requested, it shall be conducted by the board in compliance with this section.

(c) The petitioner may present evidence relevant to the individual student.

(d) The board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

(e) The board must grant the request made in the petition unless the board determines that there is a reasonable basis for denying the request. The decision of the board, either with or without hearing, is final unless the student, or the parent, guardian, or custodian of the student as next friend, files exception to the decision of the board as constituting a denial of any right of the student guaranteed under the United States Constitution.

(f) If an exception is filed under Subsection (e), the board may reconsider its decision. If the board has not ruled on the exception before the 16th day after the date of the filing, the exception is considered overruled. If the exception is overruled, an appeal of the board's decision may be filed in the district court of the county in which the board is located. The petition must:

(1) be filed not later than the 30th day after the date of the board's final decision; and

(2) state the facts relevant to the student that relate to the alleged denial of the student's rights under the United States Constitution.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.0341. Transfer of Students Involved in Sexual Assault.

(a) This section applies only to:

(1) a student:

(A) who has been convicted of continuous sexual abuse of young child or children under Section 21.02, Penal Code, or convicted of or placed on deferred adjudication for the offense of sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code, committed against another student who, at the time the offense occurred, was assigned to the same campus as the student convicted or placed on deferred adjudication;

(B) who has been adjudicated under Section 54.03, Family Code, as having engaged in conduct described by Paragraph (A);

(C) whose prosecution under Section 53.03, Family Code, for engaging in conduct described by Paragraph (A) has been deferred; or

(D) who has been placed on probation under Section 54.04(d)(1), Family Code, for engaging in conduct described by Paragraph (A); and

(2) a student who is the victim of conduct described by Subdivision (1)(A).

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim to whom Subsection (a)(2) applies:

(1) the board of trustees of the school district shall transfer the student to:

(A) a district campus other than:

(i) the campus to which the student was assigned at the time the conduct occurred; or

(ii) the campus to which the student who engaged in the conduct is assigned, if the student who engaged in the conduct has been assigned to a different campus since the conduct occurred; or

(B) a neighboring school district, if there is only one campus in the district serving the grade level in which the student is enrolled; or

(2) if the student does not wish to transfer to another campus or district, the board of trustees shall transfer the student who engaged in the conduct to:

(A) a district campus other than the campus to which the student who is the victim of the conduct is assigned; or

(B) the district's disciplinary alternative education program or juvenile justice alternative education program, if there is only one campus in the district serving the grade level in which the student who engaged in the conduct is enrolled.

(c) A transfer under Subsection (b)(1) must be to a campus or school district, as applicable, agreeable to the parent or other person with authority to act on the student's behalf.

(d) To the extent permitted under federal law, a school district shall notify the parent or other person with authority to act on behalf of a student who is a victim to whom Subsection (a)(2) applies of the campus or program to which the student who engaged in conduct described by Subsection (a)(1)(A) is assigned.

(e) This section applies regardless of whether the conduct occurred on or off of school property.

(f) Section 25.034 does not apply to a transfer under this section.

(g) A school district is not required to provide transportation to a student who transfers to another campus or school district under this section.

(Enacted by Acts 2005, 79th Leg., ch. 997 (H.B. 308), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), art. 3, § 3.25, effective September 1, 2007.)

Sec. 25.0342. Transfer of Students Who Are Victims of or Have Engaged in Bullying.

(a) In this section, "bullying" has the meaning assigned by Section 37.0832.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

(b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.

(c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.

(d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.

(e) The determination by the board of trustees or the board's designee is final and may not be appealed.

(f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).

(g) Section 25.034 does not apply to a transfer under this section.

(Acts 2005, 79th Leg., ch. 920 (H.B. 283), § 2, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(12), effective September 1, 2007 (renumbered from Sec. 25.0341); am. Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), §§ 2, 3, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 8 provides: "This Act applies beginning with the 2012-2013 school year."

Sec. 25.0343. Transfer of Students Residing in Household of Student Receiving Special Education Services.

(a) If, for the purpose of receiving special education services under Subchapter A, Chapter 29, a school district assigns a student to a district campus other than the campus the student would attend based on the student's residence, the district shall permit the student's parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the household of the student receiving special education services, provided that:

(1) the other student is entitled under Section 25.001 to attend school in the district; and

(2) the appropriate grade level for the other student is offered at the campus.

(b) A school district is not required to provide transportation to a student who transfers to another campus under this section. This subsection does not affect any transportation services provided by the district in accordance with other law for the student receiving special education services.

(c) Section 25.034 does not apply to a transfer under this section.

(d) This section does not apply if the student receiving special education services resides in a residential facility.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 12.01, effective May 31, 2006.)

Sec. 25.035. Transfers Between Districts or Counties.

The boards of trustees of two or more adjoining school districts or the boards of county school trustees of two or more adjoining counties may, by agreement and in accordance with Sections 25.032, 25.033, and 25.034, arrange for the transfer and assignment of any student from the jurisdiction of one board to that of another. In the case of the transfer and assignment of a student under this section, the participating governing boards shall also agree to the transfer of school funds or other

payments proportionate to the transfer of attendance.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.036. Transfer of Student.

(a) Any child, other than a high school graduate, who is younger than 21 years of age and eligible for enrollment on September 1 of any school year may transfer annually from the child's school district of residence to another district in this state if both the receiving district and the applicant parent or guardian or person having lawful control of the child jointly approve and timely agree in writing to the transfer.

(b) A transfer agreement under this section shall be filed and preserved as a receiving district record for audit purposes of the agency.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.037. Transfer of State Funds.

On the timely filing with the agency of notice of a child's transfer and certification by the agency of the transfer, the state available school fund apportionment transfers with the child. For purposes of computing state allotments to school districts under the Foundation School Program, the attendance of the child before the date of transfer is counted by the transfer sending district and the attendance of the child after the date of transfer is counted by the transfer receiving district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.038. Tuition Fee for Transfer Students.

The receiving school district may charge a tuition fee to the extent that the district's actual expenditure per student in average daily attendance, as determined by its board of trustees, exceeds the sum the district benefits from state aid sources as provided by Section 25.037. However, unless a tuition fee is prescribed and set out in a transfer agreement before its execution by the parties, an increase in tuition charge may not be made for the year of that transfer that exceeds the tuition charge, if any, of the preceding school year.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.039. Contracts and Tuition for Education Outside District.

(a) A school district that does not offer each grade level from kindergarten through grade 12 may provide by contract for students residing in the district who are at grade levels not offered by the district to be educated at those grade levels in one or more other districts. In each contract, the districts also shall agree to the transfer of school funds or other payments proportionate to the transfer of attendance.

(b) The school district in which the students reside shall pay tuition to any district with which it has a contract under this section for each of its students attending school in that district at a grade level for which the district has contracted. The amount of the tuition paid may not exceed the greater of the amount provided for by Section 25.038 or an amount specified by commissioner rule.

(c) A school district is not required to pay tuition to any district with which it has not contracted for the attendance by any of its students at a grade level for which it has contracted under this section with another district.

(d) A contract under this section may not be for a period exceeding five years.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.32, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1069 (H.B. 1619), § 1, effective September 1, 2003.)

Sec. 25.040. Transfer to District of Bordering State.

Any child entitled to attend the public school of any school district situated on the border of Louisiana, Arkansas, Oklahoma, or New Mexico who finds it more convenient to attend the public school in a district in the contiguous state may have the apportionment of the state and county available school funds paid to the school district of the contiguous state and may have additional tuition, if necessary, paid by the district of the child's residence on terms agreed on by the trustees of the receiving district and the trustees of the residence district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.041. Transfer of Children or Wards of Employees of State Schools.

A school-age child or ward of an employee of a state school for the mentally retarded constituted as a school district who resides in the boundaries of the state school property but who is not a student at the state school is entitled to attend school in a district adjacent to the state school free of any charge to the child's or ward's parent or guardian provided the parent or guardian is required by the superintendent of the state school to live on the grounds of the

state school for the convenience of this state. A tuition charge required by the admitting district shall be paid by the district constituting the state school out of funds allotted to it by the agency.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.042. Transfer of Children of Employees of Texas Youth Commission Facilities.

A school-age child of an employee of a facility of the Texas Youth Commission is entitled to attend school in a school district adjacent to the district in which the student resides free of any charge to the student's parents or guardian. Any tuition charge required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the facility.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.043. Classroom Placement of Multiple Birth Siblings.

(a) In this section:

(1) "Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.

(2) "Parent" includes a person standing in parental relation.

(b) The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing, not later than the 14th day after the first day of enrollment, that the school place the siblings in the same classroom or in separate classrooms.

(c) Except as provided by Subsection (d) or (g), a school shall provide the multiple birth siblings with the classroom placement requested by the parent.

(d) At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the multiple birth siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

(e) A parent may appeal the principal's classroom placement of multiple birth siblings in the manner provided by school district policy. During an appeal, the multiple birth siblings shall remain in the classroom chosen by the parent.

(f) The school may recommend to a parent the appropriate classroom placement for the multiple birth siblings and may provide professional educational advice to assist the parent with the decision regarding appropriate classroom placement.

(g) A school district is not required to place multiple birth siblings in separate classrooms if the request would require the school district to add an additional class to the grade level of the multiple birth siblings.

(h) This section does not affect:

(1) a right or obligation under Subchapter A, Chapter 29, or under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) regarding the individual placement decisions of the school district admission, review, and dismissal committee; or

(2) the right of a school district or teacher to remove a student from a classroom under Chapter 37.

(Enacted by Acts 2007, 80th Leg., ch. 91 (H.B. 314), § 1, effective May 15, 2007.)

SUBCHAPTER C
OPERATION OF SCHOOLS AND SCHOOL ATTENDANCE

Sec. 25.081. Operation of Schools.

(a) Except as authorized under Subsection (b) of this section, Section 25.084, or Section 29.0821, for each school year each school district must operate so that the district provides for at least 180 days of instruction for students.

(b) The commissioner may approve the instruction of students for fewer than the number of days required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 824 (S.B. 346), § 2, effective June 20, 2003.)

Sec. 25.0811. First Day of Instruction.

(a) Except as provided by this section, a school district may not begin instruction for students for a school year before the fourth Monday in August. A school district may:

(1) begin instruction for students for a school year before the fourth Monday in August if the district operates a year-round system under Section 25.084; or

(2) begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the district if:

(A) the district has a student enrollment of 190,000 or more;

(B) the district at the beginning of the school year provides, financed with local funds, days of instruction for students at the campus or at

each of the multiple campuses, in addition to the minimum number of days of instruction required under Section 25.081;

(C) the campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the board of trustees of the district; and

(D) a majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

(b) Notwithstanding Subsection (a), a school district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may start school on any date permitted under Subsection (a) or the law of the other state.

(c) [Repealed by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 9.03, effective May 31, 2006.]

(Enacted by Acts 2001, 77th Leg., ch. 909 (S.B. 108), § 1, effective September 1, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 9, §§ 9.02, 9.03, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 708 (H.B. 2171), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 277 (H.B. 1555), § 1, effective June 17, 2011.)

Sec. 25.082. School Day; Pledges of Allegiance; Minute of Silence.

(a) A school day shall be at least seven hours each day, including intermissions and recesses.

(b) The board of trustees of each school district and the governing board of each open-enrollment charter school shall require students, once during each school day at each campus, to recite:

(1) the pledge of allegiance to the United States flag in accordance with 4 U.S.C. Section 4; and

(2) the pledge of allegiance to the state flag in accordance with Subchapter C, Chapter 3100, Government Code.

(b-1) The board of trustees of each school district and the governing board of each open-enrollment charter school shall require that the United States and Texas flags be prominently displayed in accordance with 4 U.S.C. Sections 5-10 and Chapter 3100, Government Code, in each campus classroom to which a student is assigned at the time the pledges of allegiance to those flags are recited. A district or school is not required to spend federal, state, or local district or school funds to acquire flags required under this subsection. A district or school may raise money or accept gifts, grants, and donations to acquire flags required under this subsection.

(c) On written request from a student's parent or guardian, a school district or open-enrollment charter school shall excuse the student from reciting a pledge of allegiance under Subsection (b).

(d) The board of trustees of each school district and the governing board of each open-enrollment charter school shall provide for the observance of one minute of silence at each campus following the recitation of the pledges of allegiance to the United States and Texas flags under Subsection (b). During the one-minute period, each student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of students during that period shall ensure that each of those students remains silent and does not act in a manner that is likely to interfere with or distract another student.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 126 (S.B. 83), §§ 1, 2, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 881 (H.B. 773), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 42, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 881 (H.B. 773), § 2 provides: "(a) Sections 25.082(b), (c), and (d), Education Code, as amended by this Act, apply beginning with the 2013-2014 school year.

(b) Section 25.082(b-1), Education Code, as added by this Act, applies beginning with the 2016-2017 school year."

Sec. 25.0821. Minute of Silence to Commemorate September 11, 2001.

(a) To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary or secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day.

(b) Immediately before the period of observance required by this section, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001.

(c) The period of observance required by this section may be held in conjunction with the minute of silence required by Section 25.082.

(Enacted by Acts 2013, 83rd Leg., ch. 925 (H.B. 1501), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 925 (H.B. 1501), § 2 provides: "This Act applies beginning with the 2013-2014 academic year."

Sec. 25.083. School Day Interruptions.

(a) The board of trustees of each school district shall adopt and strictly enforce a policy limiting

interruptions of classes during the school day for nonacademic activities such as announcements and sales promotions. At a minimum, the policy must limit announcements other than emergency announcements to once during the school day.

(b) The board of trustees of each school district shall adopt and strictly enforce a policy limiting the removal of students from class for remedial tutoring or test preparation. A district may not remove a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than 10 percent of the school days on which the class is offered, unless the student's parent or another person standing in parental relation to the student provides to the district written consent for removal from class for such purpose.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 5(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 5(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 25.084. Year-Round System.

(a) A school district may operate its schools year-round on either a single-track or a multitrack calendar. If a school district adopts a year-round system, the district may modify:

(1) the number of contract days of employees and the number of days of operation, including any time required for staff development, planning and preparation, and continuing education, otherwise required by law;

(2) testing dates, data reporting, and related matters;

(3) the date of the first day of instruction of the school year under Section 25.0811 for a school that was operating year-round for the 2000-2001 school year; and

(4) a student's eligibility to participate in extracurricular activities when the student's calendar track is not in session.

(b) The operation of schools year-round by a district does not affect the amount of state funds to which the district is entitled under Chapter 42.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 909 (S.B. 108), § 2, effective September 1, 2001.)

Sec. 25.085. Compulsory School Attendance.

(a) A child who is required to attend school under this section shall attend school each school day for the entire period the program of instruction is provided.

(b) Unless specifically exempted by Section 25.086, a child who is at least six years of age, or who is younger than six years of age and has previously been enrolled in first grade, and who has not yet reached the child's 18th birthday shall attend school.

(c) On enrollment in prekindergarten or kindergarten, a child shall attend school.

(d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

(1) an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;

(2) an accelerated reading instruction program to which the student is assigned under Section 28.006(g);

(3) an accelerated instruction program to which the student is assigned under Section 28.0211;

(4) a basic skills program to which the student is assigned under Section 29.086; or

(5) a summer program provided under Section 37.008(*l*) or Section 37.021.

(e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday shall attend school each school day for the entire period the program of instruction is offered. A school district may revoke for the remainder of the school year the enrollment of a person who has more than five absences in a semester that are not excused under Section 25.087. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school district grounds for purposes of Section 37.107.

(f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section 25.094 applies to a person subject to a policy adopted under this subsection. Sections 25.093 and 25.095 do not apply to the parent of a person subject to a policy adopted under this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1019 (S.B. 247), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.10, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 711 (H.B. 907), § 1, effective June 18, 1999; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 3, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 50 (H.B. 566), § 1, effective May

10, 2007; am. Acts 2007, 80th Leg., ch. 850 (H.B. 1137), § 2, effective June 15, 2007.)

Sec. 25.086. Exemptions.

(a) A child is exempt from the requirements of compulsory school attendance if the child:

(1) attends a private or parochial school that includes in its course a study of good citizenship;

(2) is eligible to participate in a school district's special education program under Section 29.003 and cannot be appropriately served by the resident district;

(3) has a physical or mental condition of a temporary and remediable nature that makes the child's attendance infeasible and holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from that remedial treatment;

(4) is expelled in accordance with the requirements of law in a school district that does not participate in a mandatory juvenile justice alternative education program under Section 37.011;

(5) is at least 17 years of age and:

(A) is attending a course of instruction to prepare for the high school equivalency examination, and:

(i) has the permission of the child's parent or guardian to attend the course;

(ii) is required by court order to attend the course;

(iii) has established a residence separate and apart from the child's parent, guardian, or other person having lawful control of the child; or

(iv) is homeless as defined by 42 U.S.C. Section 11302; or

(B) has received a high school diploma or high school equivalency certificate;

(6) is at least 16 years of age and is attending a course of instruction to prepare for the high school equivalency examination, if:

(A) the child is recommended to take the course of instruction by a public agency that has supervision or custody of the child under a court order; or

(B) the child is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.);

(7) is at least 16 years of age and is enrolled in a high school diploma program under Chapter 18;

(8) is enrolled in the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105;

(9) is enrolled in the Texas Academy of Leadership in the Humanities;

(10) is enrolled in the Texas Academy of Mathematics and Science at The University of Texas at Brownsville;

(11) is enrolled in the Texas Academy of International Studies; or

(12) is specifically exempted under another law.

(b) This section does not relieve a school district in which a child eligible to participate in the district's special education program resides of its fiscal and administrative responsibilities under Subchapter A, Chapter 29, or of its responsibility to provide a free appropriate public education to a child with a disability.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 1, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1019 (S.B. 247), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1282 (S.B. 1472), § 2, effective June 18, 1999; am. Acts 2005, 79th Leg., ch. 377 (S.B. 1395), § 3, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 887 (S.B. 1452), § 2, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1339 (S.B. 151), § 6, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.003, effective September 1, 2007.)

Sec. 25.087. Excused Absences.

(a) A person required to attend school, including a person required to attend school under Section 25.085(e), may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) observing religious holy days;

(B) attending a required court appearance;

(C) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship;

(D) taking part in a United States naturalization oath ceremony;

(E) serving as an election clerk; or

(F) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 688]** for a child in the conservatorship of the Department of Family and Protective Services, attending a mental health or therapy appointment or family visitation as ordered by a court under Chapter 262 or 263, Family Code; or

(F) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1354]** if the student is in the conservatorship of the Department of Family and Protective Services, participating in an activity ordered by a court under Chapter 262 or 263, Family Code, provided that it is not practicable to schedule the participation outside of school hours; or

(2) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 249]** a temporary absence resulting from an appointment with health care professionals for the student or the student's child if the student commences classes or returns to school on the same day of the appointment.

(2) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 688]** a temporary absence resulting from an appointment with a health care professional if that student commences classes or returns to school on the same day of the appointment.

(b-1) A school district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election.

(b-2) A school district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

(1) the district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and

(2) the district adopts:

(A) a policy to determine when an absence will be excused for this purpose; and

(B) a procedure to verify the student's visit at the institution of higher education.

(b-3) A temporary absence for purposes of Subsection (b)(2) includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner, as described by Section 1355.015(b), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

(b-4) A school district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services as defined by Section 162.002 and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A school district may not excuse a student under this subsection more than five days in a school year. An excused absence under this subsection must be taken:

(1) not earlier than the 60th day before the date of deployment; or

(2) not later than the 30th day after the date of return from deployment.

(c) A school district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.

(d) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 404]** A student whose absence is excused under Subsection (b), (b-2), (b-4), or (c) may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b), (b-2), (b-4), or (c) shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

(d) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 542]** A student whose absence is excused under Subsection (b), (b-1), (b-2), or (c) may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b), (b-1), (b-2), or (c) shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

(e) A school district may excuse a student for the purposes provided by Subsections (b)(1)(E) and (b-1) for a maximum of two days in a school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 651 (H.B. 217), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 711 (H.B. 907), § 2, effective June 18, 1999; am. Acts 2007, 80th Leg., ch. 651, effective June 19, 1999; am. Acts 2007, 80th Leg., ch. 479 (H.B. 2455), § 1, effective June 16, 2007; am. Acts 2007, 80th Leg., ch. 660 (H.B. 1187), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 7, § 7.002(a), (b), effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 455 (H.B. 2542), §§ 1, 2, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 517 (S.B. 1134), § 3, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 595 (H.B. 192), § 1, effective June 19, 2009;

am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.005, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 249 (H.B. 455), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 404 (S.B. 260), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 542 (S.B. 553), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 11, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 249 (H.B. 455), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 12(b) provides: "The changes in law made by this Act to the Education Code apply beginning with the 2013-2014 school year."

Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 5 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 25.088. School Attendance Officer.

The school attendance officer may be selected by:

(1) the county school trustees of any county;

(2) the board of trustees of any school district or the boards of trustees of two or more school districts jointly; or

(3) the governing body of an open-enrollment charter school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 21, effective September 1, 2001.)

Sec. 25.089. Compensation of Attendance Officer; Dual Service.

(a) An attendance officer may be compensated from the funds of the county, independent school district, or open-enrollment charter school, as applicable.

(b) An attendance officer may be the probation officer or an officer of the juvenile court of the county.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 22, effective September 1, 2001.)

Sec. 25.090. Attendance Officer Not Selected.

(a) In those counties and independent school districts where an attendance officer has not been selected, the duties of attendance officer shall be performed by the school superintendents and peace officers of the counties and districts.

(b) If the governing body of an open-enrollment charter school has not selected an attendance officer, the duties of attendance officer shall be performed by the peace officers of the county in which the school is located.

(c) Additional compensation may not be paid for services performed under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 23, effective September 1, 2001.)

Sec. 25.091. Powers and Duties of Peace Officers and Other Attendance Officers.

(a) A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; or

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to serve court-ordered legal process;

(4) to review school attendance records for compliance by each student investigated by the officer;

(5) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(6) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent; and

(7) to take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

(b) An attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

(1) to investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

(2) to enforce compulsory school attendance requirements by:

(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

(B) if the truancy prevention measures fail to meaningfully address the student's conduct:

(i) referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; and

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to monitor school attendance compliance by each student investigated by the officer;

(4) to maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board of trustees of a school district, or the commissioner, to provide a record to the individual or entity requesting the record;

(5) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence;

(6) at the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements; and

(7) if the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the school district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

(b-1) A peace officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085 may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

(c) In this section:

(1) "Parent" includes a person standing in parental relation.

(2) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 3, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 5, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 9, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Sec. 25.0915. Truancy Prevention Measures; Referral and Filing Requirement.

(a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting;

(2) minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

(b) Each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094 must:

(1) be accompanied by a statement from the student's school certifying that:

(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and

(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

(c) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with Subsection (b).

(Enacted by Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 10, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 8, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10(a) provides: "Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date."

Sec. 25.0916. [Expires January 1, 2016] Uniform Truancy Policies in Certain Counties.

(a) This section applies only to a county:

(1) with a population greater than 1.5 million; and

(2) that includes at least:

(A) 15 school districts with the majority of district territory in the county; and

(B) one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9-12 of at least five percent, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education.

(b) A committee shall be established to recommend a uniform truancy policy for each school district located in the county.

(c) Not later than September 1, 2013, the county judge and the mayor of the municipality in the county with the greatest population shall each appoint one member to serve on the committee as a representative of each of the following:

(1) a juvenile district court;

(2) a municipal court;

(3) the office of a justice of the peace;

(4) the superintendent or designee of an independent school district;

(5) an open-enrollment charter school;

(6) the office of the district attorney; and

(7) the general public.

(d) Not later than September 1, 2013, the county judge shall appoint to serve on the committee one member from the house of representatives and one member from the senate who are members of the respective standing legislative committees with primary jurisdiction over public education.

(e) The county judge and mayor of the municipality in the county with the greatest population shall:

(1) both serve on the committee or appoint representatives to serve on their behalf; and

(2) jointly appoint a member of the committee to serve as the presiding officer.

(f) Not later than September 1, 2014, the committee shall recommend:

(1) a uniform process for filing truancy cases with the judicial system;

(2) uniform administrative procedures;

(3) uniform deadlines for processing truancy cases;

(4) effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court;

(5) a system for tracking truancy information and sharing truancy information among school districts and open-enrollment charter schools in the county; and

(6) any changes to statutes or state agency rules the committee determines are necessary to address truancy.

(g) Compliance with the committee recommendations is voluntary.

(h) The committee's presiding officer shall issue a report not later than December 1, 2015, on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county.

(i) This section expires January 1, 2016.

(Enacted by Acts 2013, 83rd Leg., ch. 923 (H.B. 1479), § 1, effective June 14, 2013.)

Sec. 25.092. Minimum Attendance for Class Credit or Final Grade.

(a) Except as provided by this section, a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered.

(a-1) A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of

the class. A student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit or a final grade under this subsection without the consent of the judge presiding over the student's case.

(a-2) Subsection (a) does not apply to a student who receives credit by examination for a class as provided by Section 28.023.

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit or a final grade by students who are in attendance fewer than the number of days required under Subsection (a) and have not earned class credit or a final grade under Subsection (a-1). Classroom teachers shall comprise a majority of the membership of the committee. A committee may give class credit or a final grade to a student because of extenuating circumstances. Each board of trustees shall establish guidelines to determine what constitutes extenuating circumstances and shall adopt policies establishing alternative ways for students to make up work or regain credit or a final grade lost because of absences. The alternative ways must include at least one option that does not require a student to pay a fee authorized under Section 11.158(a)(15). A certified public school employee may not be assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

(c) A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee.

(d) If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board of trustees. The decision of the board may be appealed by trial de novo to the district court of the county in which the school district's central administrative office is located.

(e) This section does not affect the provision of Section 25.087(b) regarding a student's excused absence from school to observe religious holy days.

(f) The availability of the option developed under Subsection (b) must be substantially the same as the availability of the educational program developed under Section 11.158(a)(15).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 698 (H.B. 772), § 2, effective June 18, 1999; am. Acts 2007, 80th Leg., ch. 850 (H.B. 1137), § 3, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 6(a), 7(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 1029 (H.B. 2694), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1203 (S.B. 1365), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 6(b) and 7(b) provide: "This section applies beginning with the 2013-2014 school year."

Acts 2013, 83rd Leg., ch. 1029 (H.B. 2694), § 3 and Acts 2013, 83rd Leg., ch. 1203 (S.B. 1365), § 3 provide: "This Act applies beginning with the 2013-2014 school year."

Sec. 25.093. Parent Contributing to Nonattendance.

(a) If a warning is issued as required by Section 25.095(a), the parent with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Section 25.094, the parent commits an offense.

(b) The attendance officer or other appropriate school official shall file a complaint against the parent in:

(1) the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of 1.75 million or more;

(2) a justice court of any precinct in the county in which the parent resides or in which the school is located; or

(3) a municipal court of the municipality in which the parent resides or in which the school is located.

(c) An offense under Subsection (a) is a Class C misdemeanor. Each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) may be consolidated and prosecuted in a single action. If the court orders deferred disposition under Article 45.051, Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the deferral.

(d) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of, as applicable:

(A) the school district in which the child attends school;

(B) the open-enrollment charter school the child attends; or

(C) the juvenile justice alternative education program that the child has been ordered to attend; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child

may be presented in court by any authorized employee of the school district or open-enrollment charter school, as applicable.

(f) The court in which a conviction, deferred adjudication, or deferred disposition for an offense under Subsection (a) occurs may order the defendant to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the students' unexcused absences and in developing strategies for resolving those problems if a program is available.

(g) If a parent refuses to obey a court order entered under this section, the court may punish the parent for contempt of court under Section 21.002, Government Code.

(h) It is an affirmative defense to prosecution for an offense under Subsection (a) that one or more of the absences required to be proven under Subsection (a) was excused by a school official or should be excused by the court. The burden is on the defendant to show by a preponderance of the evidence that the absence has been or should be excused. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(i) In this section, "parent" includes a person standing in parental relation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 865 (H.B. 1606), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1403 (H.B. 1961), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 24, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), §§ 4, 5, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 38, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.001, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 6(a) provides: "The changes in law made by this Act to Sections 25.093 and 25.094, Education Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Sec. 25.094. Failure to Attend School.

(a) An individual commits an offense if the individual:

(1) is 12 years of age or older and younger than 18 years of age;

(2) is required to attend school under Section 25.085; and

(3) fails to attend school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period.

(b) An offense under this section may be prosecuted in:

(1) the constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of 1.75 million or more;

(2) a justice court of any precinct in the county in which the individual resides or in which the school is located; or

(3) a municipal court in the municipality in which the individual resides or in which the school is located.

(c) On a finding by the county, justice, or municipal court that the individual has committed an offense under Subsection (a) or on a finding by a juvenile court in a county with a population of less than 100,000 that the individual has engaged in conduct that violates Subsection (a), the court may enter an order that includes one or more of the requirements listed in Article 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001.

(d) If the county, justice, or municipal court believes that a child has violated an order issued under Subsection (c), the court may proceed as authorized by Article 45.050, Code of Criminal Procedure.

(d-1) Pursuant to an order of the county, justice, or municipal court based on an affidavit showing probable cause to believe that an individual has committed an offense under this section, a peace officer may take the individual into custody. A peace officer taking an individual into custody under this subsection shall:

(1) promptly notify the individual's parent, guardian, or custodian of the officer's action and the reason for that action; and

(2) without unnecessary delay:

(A) release the individual to the individual's parent, guardian, or custodian or to another responsible adult, if the person promises to bring the individual to the county, justice, or municipal court as requested by the court; or

(B) bring the individual to a county, justice, or municipal court with venue over the offense.

(e) An offense under this section is a Class C misdemeanor.

(f) It is an affirmative defense to prosecution under this section that one or more of the absences

required to be proven under Subsection (a) were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense under this section. The burden is on the defendant to show by a preponderance of the evidence that the absence has been excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(g) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) was involuntary. The burden is on the defendant to show by a preponderance of the evidence that the absence was involuntary.

(h), (i) [Deleted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 4, effective September 1, 2001.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 865 (H.B. 1606), § 3, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 55, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 4, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), §§ 6—8, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 39, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 36, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 2, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 6(a) provides: "The changes in law made by this Act to Sections 25.093 and 25.094, Education Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Sec. 25.095. Warning Notices.

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period:

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to prosecution under Section 25.094 or to referral to a juvenile court in a county with a population of less than 100,000 for conduct that violates that section.

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) the parent is subject to prosecution under Section 25.093; and

(2) request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense to prosecution under Section 25.093 or 25.094.

(d) In this section, "parent" includes a person standing in parental relation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 25, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 5, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.002, effective September 1, 2003.)

Sec. 25.0951. School District Complaint or Referral for Failure to Attend School.

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(b) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school

for the time described by Subsection (a), the school district may:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(c) In this section, "parent" includes a person standing in parental relation.

(d) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with this section.

(Enacted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 6, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 9, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 37, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 31, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 984 (S.B. 1161), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 7, § 7.003, effective September 1, 2009.)

Sec. 25.0952. Procedures Applicable to School Attendance-Related Offenses.

In a proceeding based on a complaint under Section 25.093 or 25.094, the court shall, except as otherwise provided by this chapter, use the procedures and exercise the powers authorized by Chapter 45, Code of Criminal Procedure.

(Enacted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 6, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 10, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 40, effective September 1, 2003.)

Sec. 25.096. Additional Authorization to Enforce Compulsory Attendance Law [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 19(a), effective September 1, 2001.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER D STUDENT/TEACHER RATIOS; CLASS SIZE

Sec. 25.111. Student/Teacher Ratios.

Except as provided by Section 25.112, each school district must employ a sufficient number of teachers certified under Subchapter B, Chapter 21, to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 25.112. Class Size.

(a) Except as otherwise authorized by this section, a school district may not enroll more than 22 students in a kindergarten, first, second, third, or fourth grade class. That limitation does not apply during:

(1) any 12-week period of the school year selected by the district, in the case of a district whose average daily attendance is adjusted under Section 42.005(c); or

(2) the last 12 weeks of any school year in the case of any other district.

(b) Not later than the 30th day after the first day of the 12-week period for which a district whose average daily attendance is adjusted under Section 42.005(c) is claiming an exemption under Subsection (a), the district shall notify the commissioner in writing that the district is claiming an exemption for the period stated in the notice.

(c) In determining the number of students to enroll in any class, a school district shall consider the subject to be taught, the teaching methodology to be used, and any need for individual instruction.

(d) On application of a school district, the commissioner may except the district from the limit in Subsection (a) if the commissioner finds the limit works an undue hardship on the district. An exception expires at the end of the school year for which it is granted.

(e) A school district seeking an exception under Subsection (d) shall notify the commissioner and apply for the exception not later than the later of:

(1) October 1; or

(2) the 30th day after the first school day the district exceeds the limit in Subsection (a).

(f) If a school district repeatedly fails to comply with this section, the commissioner may take any appropriate action authorized to be taken by the commissioner under Section 39.131.

(g) [Expired Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 2, effective February 1, 2011.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 889 (H.B. 3313), § 1, effective June 14, 2001; am. Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 2, effective June 19, 2009.)

Sec. 25.113. Notice of Class Size.

(a) A campus or district that is granted an exception under Section 25.112(d) from class size limits

shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception. The notice must be in conspicuous bold or underlined print and:

(1) specify the class for which an exception from the limit imposed by Section 25.112(a) was granted;

(2) state the number of children in the class for which the exception was granted; and

(3) be included in a regular mailing or other communication from the campus or district, such as information sent home with students.

(b) The notice required by Subsection (a) must be provided not later than the 31st day after:

(1) the first day of the school year; or

(2) the date the exception is granted, if the exception is granted after the beginning of the school year.

(Enacted by Acts 2001, 77th Leg., ch. 889 (H.B. 3313), § 2, effective June 14, 2001.)

Sec. 25.114. Student/Teacher Ratios in Physical Education Classes; Class Size.

(a) In implementing the curriculum for physical education under Section 28.002(a)(2)(C), each school district shall establish specific objectives and goals the district intends to accomplish through the curriculum, including, to the extent practicable, student/teacher ratios that are small enough to enable the district to:

(1) carry out the purposes of and requirements for the physical education curriculum as provided under Section 28.002(d); and

(2) ensure the safety of students participating in physical education.

(b) If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

(Enacted by Acts 2009, 81st Leg., ch. 773 (S.B. 891), § 2, effective June 19, 2009.)

SUBCHAPTER E
STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

Sec. 25.151. Student Expression.

A school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(Enacted by Acts 2007, 80th Leg., ch. 261 (H.B. 3678), § 2, effective June 8, 2007.)

Sec. 25.152. Limited Public Forum; School District Policy.

(a) To ensure that the school district does not discriminate against a student's publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of a student's expression of a religious viewpoint, if any, a school district shall adopt a policy, which must include the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak. The policy regarding the limited public forum must also require the school district to:

(1) provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;

(2) provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;

(3) ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech; and

(4) state, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the district.

(b) The school district disclaimer required by Subsection (a)(4) must be provided at all graduation ceremonies. The school district must also continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the district's nonsponsorship of the student's speech.

(c) Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

(Enacted by Acts 2007, 80th Leg., ch. 261 (H.B. 3678), § 2, effective June 8, 2007.)

Sec. 25.153. Religious Expression in Class Assignments.

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments must be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns

identified by the school district. Students may not be penalized or rewarded on account of the religious content of their work.
(Enacted by Acts 2007, 80th Leg., ch. 261 (H.B. 3678), § 2, effective June 8, 2007.)

Sec. 25.154. Freedom to Organize Religious Groups and Activities.

Students may organize prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the school district may not discriminate against groups that meet for prayer or other religious speech. A school district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.
(Enacted by Acts 2007, 80th Leg., ch. 261 (H.B. 3678), § 2, effective June 8, 2007.)

Sec. 25.155. Adoption of Policy.

A school district shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. If a school district voluntarily adopts and follows the model policy governing voluntary religious expression in public schools as provided by Section 25.156, the district is in compliance with the provisions of this subchapter covered by the model policy.
(Enacted by Acts 2007, 80th Leg., ch. 261 (H.B. 3678), § 2, effective June 8, 2007.)

Sec. 25.156. Model Policy Governing Voluntary Religious Expression in Public Schools.

In this section, "model policy" means a local policy adopted by the school district that is substantially identical to the following:

ARTICLE I
STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE II
STUDENT SPEAKERS AT NONGRADUATION EVENTS

The school district hereby creates a limited public forum for student speakers at all school events at which a student is to publicly speak. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion. Student speakers shall introduce:

(1) football games;

(2) any other athletic events designated by the district;

(3) opening announcements and greetings for the school day; and

(4) any additional events designated by the district, which may include, without limitation, assemblies and pep rallies.

The forum shall be limited in the manner provided by this article.

Only those students in the highest two grade levels of the school and who hold one of the following positions of honor based on neutral criteria are eligible to use the limited public forum: student council officers, class officers of the highest grade level in the school, captains of the football team, and other students holding positions of honor as the school district may designate.

An eligible student shall be notified of the student's eligibility, and a student who wishes to participate as an introducing speaker shall submit the student's name to the student council or other designated body during an announced period of not less than three days. The announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak for one week at a time for all introductions of events that week, or rotate after each speaking event, or otherwise as determined by the district. The list of student speakers shall be chronologically repeated as needed, in the same order. The district may repeat

the selection process each semester rather than once a year.

The subject of the student introductions must be related to the purpose of the event and to the purpose of marking the opening of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event. The subject must be designated, a student must stay on the subject, and the student may not engage in obscene, vulgar, offensively lewd, or indecent speech. The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

For as long as there is a need to dispel confusion over the nonsponsorship of the student's speech, at each event in which a student will deliver an introduction, a disclaimer shall be stated in written or oral form, or both, such as, "The student giving the introduction for this event is a volunteering student selected on neutral criteria to introduce the event. The content of the introduction is the private expression of the student and does not reflect the endorsement, sponsorship, position, or expression of the school district."

Certain students who have attained special positions of honor in the school have traditionally addressed school audiences from time to time as a tangential component of their achieved positions of honor, such as the captains of various sports teams, student council officers, class officers, homecoming kings and queens, prom kings and queens, and the like, and have attained their positions based on neutral criteria. Nothing in this policy eliminates the continuation of the practice of having these students, irrespective of grade level, address school audiences in the normal course of their respective positions. The school district shall create a limited public forum for the speakers and shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE III
STUDENT SPEAKERS AT GRADUATION CEREMONIES

The school district hereby creates a limited public forum consisting of an opportunity for a student to speak to begin graduation ceremonies and another student to speak to end graduation ceremonies. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion.

The forum shall be limited in the manner provided by this article.

Only students who are graduating and who hold one of the following neutral criteria positions of honor shall be eligible to use the limited public forum: student council officers, class officers of the graduating class, the top three academically ranked graduates, or a shorter or longer list of student leaders as the school district may designate. A student who will otherwise have a speaking role in the graduation ceremonies is ineligible to give the opening and closing remarks. The names of the eligible volunteering students will be randomly drawn. The first name drawn will give the opening and the second name drawn will give the closing.

The topic of the opening and closing remarks must be related to the purpose of the graduation ceremony and to the purpose of marking the opening and closing of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event.

In addition to the students giving the opening and closing remarks, certain other students who have attained special positions of honor based on neutral criteria, including, without limitation, the valedictorian, will have speaking roles at graduation ceremonies. For each speaker, the school district shall set a maximum time limit reasonable and appropriate to the occasion and to the position held by the speaker. For this purpose, the district creates a limited public forum for these students to deliver the addresses. The subject of the addresses must be related to the purpose of the graduation ceremony, marking and honoring the occasion, honoring the participants and those in attendance, and the student's perspective on purpose, achievement, life, school, graduation, and looking forward to the future.

The subject must be designated for each student speaker, the student must stay on the subject, and the student may not engage in obscene, vulgar, offensively lewd, or indecent speech. The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise

permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

A written disclaimer shall be printed in the graduation program that states, "The students who will be speaking at the graduation ceremony were selected based on neutral criteria to deliver messages of the students' own choices. The content of each student speaker's message is the private expression of the individual student and does not reflect any position or expression of the school district or the board of trustees, or the district's administration, or employees of the district, or the views of any other graduate. The contents of these messages were prepared by the student volunteers, and the district refrained from any interaction with student speakers regarding the student speakers' viewpoints on permissible subjects."

ARTICLE IV
RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

Students may express the students' beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the students' submission. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students may not be penalized or rewarded on account of religious content. If a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not penalized or rewarded on account of its religious content.

ARTICLE V
FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES

Students may organize prayer groups, religious clubs, "see you at the pole" gatherings, and other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group's expression. If student groups that meet for nonreligious activities are permitted to advertise or announce the groups' meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, or handing out leaflets, school authorities may not discriminate against groups that meet for prayer or other religious speech. School authorities may disclaim sponsorship of noncurricular groups and events, provided they administer the disclaimer in a manner that does not favor or disfavor groups that meet to engage in prayer or other religious speech.
(Enacted by Acts 2007, 80th Leg., ch. 261 (H.B. 3678), § 2, effective June 8, 2007.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS RELATING TO STUDENTS

Sec. 25.901. Exercise of Constitutional Right to Pray.

A public school student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A person may not require, encourage, or coerce a student to engage in or refrain from such prayer or meditation during any school activity.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

CHAPTER 26
PARENTAL RIGHTS AND RESPONSIBILITIES

Section

Sec. 26.001. Purpose.

(a) Parents are partners with educators, administrators, and school district boards of trustees in

their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children.

(b) The rights listed in this chapter are not exclusive. This chapter does not limit a parent's rights under other law.

(c) Unless otherwise provided by law, a board of trustees, administrator, educator, or other person may not limit parental rights.

(d) Each board of trustees shall provide for procedures to consider complaints that a parent's right has been denied.

(e) Each board of trustees shall cooperate in the establishment of ongoing operations of at least one parent-teacher organization at each school in the district to promote parental involvement in school activities.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 26.002. Definition.

In this chapter, "parent" includes a person standing in parental relation. The term does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Title 2 of this code and all educational rights under Section 151.003(a)(10), Family Code, shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 10, effective June 13, 2001.)

Sec. 26.003. Rights Concerning Academic Programs.

(a) A parent is entitled to:

(1) petition the board of trustees designating the school in the district that the parent's child will attend, as provided by Section 25.033;

(2) reasonable access to the school principal, or to a designated administrator with the authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student;

(3) request, with the expectation that the request will not be unreasonably denied:

(A) the addition of a specific academic class in the course of study of the parent's child in keeping with the required curriculum if sufficient interest is shown in the addition of the class to make it economically practical to offer the class;

(B) that the parent's child be permitted to attend a class for credit above the child's grade level, whether in the child's school or another school, unless the board or its designated representative expects that the child cannot perform satisfactorily in the class; or

(C) that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation; and

(4) have a child who graduates early as provided by Subdivision (3)(C) participate in graduation ceremonies at the time the child graduates.

(b) The decision of the board of trustees concerning a request described by Subsection (a)(2) or (3) is final and may not be appealed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 26.0031. Rights Concerning State Virtual School Network.

(a) At the time and in the manner that a school district or open-enrollment charter school informs students and parents about courses that are offered in the district's or school's traditional classroom setting, the district or school shall notify parents and students of the option to enroll in an electronic course offered through the state virtual school network under Chapter 30A.

(b) Except as provided by Subsection (c), a school district or open-enrollment charter school in which a student is enrolled as a full-time student may not deny the request of a parent of a student to enroll the student in an electronic course offered through the state virtual school network under Chapter 30A.

(c) A school district or open-enrollment charter school may deny a request to enroll a student in an electronic course if:

(1) a student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;

(2) the student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the school district or open-enrollment charter school providing the course; or

(3) the district or school offers a substantially similar course.

(c-1) A school district or open-enrollment charter school may decline to pay the cost for a student of more than three yearlong electronic courses, or the equivalent, during any school year. This subsection does not:

(1) limit the ability of the student to enroll in additional electronic courses at the student's cost; or

(2) apply to a student enrolled in a full-time online program that was operating on January 1, 2013.

(d) Notwithstanding Subsection (c)(2), a school district or open-enrollment charter school that provides an electronic course through the state virtual school network under Chapter 30A shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

(e) A parent may appeal to the commissioner a school district's or open-enrollment charter school's decision to deny a request to enroll a student in an electronic course offered through the state virtual school network. The commissioner's decision under this subsection is final and may not be appealed.

(f) A school district or open-enrollment charter school from which a parent of a student requests permission to enroll the student in an electronic course offered through the state virtual school network under Chapter 30A has discretion to select a course provider approved by the network's administering authority for the course in which the student will enroll based on factors including the informed choice report in Section 30A.108(b).

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 2, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 26.004. Access to Student Records.

A parent is entitled to access to all written records of a school district concerning the parent's child, including:

(1) attendance records;
(2) test scores;
(3) grades;
(4) disciplinary records;
(5) counseling records;
(6) psychological records;
(7) applications for admission;
(8) health and immunization information;
(9) teacher and school counselor evaluations; and
(10) reports of behavioral patterns.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 18, effective June 14, 2013.)

Sec. 26.005. Access to State Assessments.

Except as provided by Section 39.023(e), a parent is entitled to access to a copy of each state assessment instrument administered under Section 39.023 to the parent's child.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 7, effective September 1, 1997.)

Sec. 26.006. Access to Teaching Materials.

(a) A parent is entitled to:

(1) review all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child; and

(2) review each test administered to the parent's child after the test is administered.

(b) A school district shall make teaching materials and tests readily available for review by parents. The district may specify reasonable hours for review.

(c) A student's parent is entitled to request that the school district or open-enrollment charter school the student attends allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, the district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher. In this subsection, "instructional material" has the meaning assigned by Section 31.002.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 1, effective June 14, 2001; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 12, effective July 19, 2011.)

Sec. 26.007. Access to Board Meetings.

(a) A parent is entitled to complete access to any meeting of the board of trustees of the school district, other than a closed meeting held in compliance with Subchapters D and E, Chapter 551, Government Code.

(b) A board of trustees of a school district must hold each public meeting of the board within the boundaries of the district except as required by law or except to hold a joint meeting with another

district or with another governmental entity, as defined by Section 2051.041, Government Code, if the boundaries of the governmental entity are in whole or in part within the boundaries of the district. All public meetings must comply with Chapter 551, Government Code.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 7, effective June 19, 1999.)

Sec. 26.008. Right to Full Information Concerning Student.

(a) A parent is entitled to full information regarding the school activities of a parent's child except as provided by Section 38.004.

(b) An attempt by any school district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discipline under Section 21.104, 21.156, or 21.211, as applicable.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 26.0081. Right to Information Concerning Special Education and Education of Students with Learning Difficulties.

(a) The agency shall produce and provide to school districts sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child.

(b) The agency will ensure that each school district provides the document required under this section to the parent as provided by 20 U.S.C. Section 1415(b):

(1) as soon as practicable after a child is referred to determine the child's eligibility for admission into the district's special education program, but at least five school days before the date of the initial meeting of the admission, review, and dismissal committee; and

(2) at any other time on reasonable request of the child's parent.

(c) The agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Section 29.004. Each school year, each district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means.
(Enacted by Acts 1999, 76th Leg., ch. 616 (S.B. 870), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 539 (H.B. 1339), §§ 1, 2, effective September 1, 2003.)

Sec. 26.0082. Supplemental Educational Services.

(a) In this section, "rigorous research" means research that includes:

(1) a study design that employs either a randomized controlled trial or a quasi-experimental design;

(2) an adequate measure of outcomes; and

(3) reliable and valid results.

(b) As part of the annual notice a school district provides to parents under 20 U.S.C. Section 6316(e)(2)(A) concerning supplemental educational services, the district shall include information provided to the district by the agency that:

(1) identifies characteristics of supplemental educational services that, based on rigorous research, have been demonstrated to be more likely to foster improvement in student academic performance, including information concerning the minimum number of hours of tutoring necessary for improved performance; and

(2) sorts, for each subject for which supplemental educational services are provided, supplemental educational services providers serving district students according to the provider's level of effectiveness in improving student performance in the applicable subject area.

(c) The agency shall develop and the commissioner by rule shall establish a process for approving and revoking approval for a supplemental educational services provider. The process must allow the agency to use any publicly available information from any published source in determining whether to approve an entity as a provider, except that the agency may not use information that is self-published or published by a provider for marketing purposes.

(d) The agency shall maintain a publicly available list of approved providers. In accordance with standards established by commissioner rule, the agency shall promptly investigate a complaint against an approved provider and promptly remove from the list of approved providers a provider for which agency approval has been revoked.

(e) Not later than the fifth business day after the date on which the agency removes a provider from the list of approved providers, the agency shall send notice of the removal to each appropriate school district. The district shall provide notice of the removal to parents of appropriate students.

(f) A supplemental educational services provider for which agency approval has been revoked because the agency determines that the provider has engaged in fraudulent activity is permanently prohibited from acting as a provider in this state.

(Enacted by Acts 2013, 83rd Leg., ch. 646 (H.B. 753), § 1, effective September 1, 2013.)

Sec. 26.0085. Requests for Public Information.

(a) A school district or open-enrollment charter school that seeks to withhold information from a parent who has requested public information relating to the parent's child under Chapter 552, Government Code, and that files suit as described by Section 552.324, Government Code, to challenge a decision by the attorney general issued under Subchapter G, Chapter 552, Government Code, must bring the suit not later than the 30th calendar day after the date the school district or open-enrollment charter school receives the decision of the attorney general being challenged.

(b) A court shall grant a suit described by Subsection (a) precedence over other pending matters to ensure prompt resolution of the subject matter of the suit.

(c) Notwithstanding any other law, a school district or open-enrollment charter school may not appeal the decision of a court in a suit filed under Subsection (a). This subsection does not affect the right of a parent to appeal the decision.

(d) If the school district or open-enrollment charter school does not bring suit within the period established by Subsection (a), the school district or open-enrollment charter school shall comply with the decision of the attorney general.

(e) A school district or open-enrollment charter school that receives a request from a parent for public information relating to the parent's child shall comply with Chapter 552, Government Code. If an earlier deadline for bringing suit is established under Chapter 552, Government Code, Subsection (a) does not apply. This section does not affect the earlier deadline for purposes of Section 532.353(b)(3) for a suit brought by an officer for public information.

(Enacted by Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 8, effective June 19, 1999.)

Sec. 26.009. Consent Required for Certain Activities.

(a) An employee of a school district must obtain the written consent of a child's parent before the employee may:

(1) conduct a psychological examination, test, or treatment, unless the examination, test, or treatment is required under Section 38.004 or state or federal law regarding requirements for special education; or

(2) make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

(b) An employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

(1) purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;

(2) a purpose related to a cocurricular or extracurricular activity;

(3) a purpose related to regular classroom instruction; or

(4) media coverage of the school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1175 (S.B. 521), § 1, effective September 1, 1997.)

Sec. 26.0091. Refusal of Psychiatric or Psychological Treatment of Child As Basis of Report of Neglect.

(a) In this section, "psychotropic drug" has the meaning assigned by Section 261.111, Family Code.

(b) An employee of a school district may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic drug to the child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect of the child under Subchapter B, Chapter 261, Family Code, unless the employee has cause to believe that the refusal:

(1) presents a substantial risk of death, disfigurement, or bodily injury to the child; or

(2) has resulted in an observable and material impairment to the growth, development, or functioning of the child.

(Enacted by Acts 2003, 78th Leg., ch. 1008 (H.B. 320), § 1, effective June 20, 2003.)

Sec. 26.010. Exemption from Instruction.

(a) A parent is entitled to remove the parent's child temporarily from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity. A parent is not entitled to remove the parent's child from a class or other school activity to avoid a test or to prevent the child from taking a subject for an entire semester.

(b) This section does not exempt a child from satisfying grade level or graduation requirements in a manner acceptable to the school district and the agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 26.011. Complaints.

The board of trustees of each school district shall adopt a grievance procedure under which the board shall address each complaint that the board receives concerning violation of a right guaranteed by this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 26.012. Fee for Copies.

The agency or a school district may charge a reasonable fee in accordance with Subchapter F, Chapter 552, Government Code, for copies of materials provided to a parent under this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 26.013. Student Directory Information.

(a) A school district shall provide to the parent of each district student at the beginning of each school year or on enrollment of the student after the beginning of a school year:

(1) a written explanation of the provisions of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), regarding the release of directory information about the student; and

(2) written notice of the right of the parent to object to the release of directory information about the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(b) The notice required by Subsection (a)(2) must contain:

(1) the following statement in boldface type that is 14-point or larger:

"Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about the student. If you do not want [insert name of school district] to disclose directory information from your child's education records without your prior written consent, you must notify the district in writing by [insert date]. [Insert name of school district] has designated the following information as directory information: [Here a school district must include any directory information it chooses to designate as directory information for the district, such as a student's name, address, telephone listing, electronic mail address, photograph, degrees, honors and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent educational institution attended, and participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]";

(2) a form, such as a check-off list or similar mechanism, that:

(A) immediately follows, on the same page or the next page, the statement required under Subdivision (1); and

(B) allows a parent to record:

(i) the parent's objection to the release of all directory information or one or more specific categories of directory information if district policy permits the parent to object to one or more specific categories of directory information;

(ii) the parent's objection to the release of a secondary student's name, address, and telephone number to a military recruiter or institution of higher education; and

(iii) the parent's consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the district and is specifically identified, such as for a student directory, student yearbook, or district publication; and

(3) a statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to provide a military recruiter or an institution of higher education, on request, with the name, address, and telephone number of a secondary student unless the parent has advised the district that the parent does not want the student's information disclosed without the parent's prior written consent.

(c) A school district may designate as directory information any or all information defined as directory information by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). Directory information under that Act that is not designated by a district as directory information for that district is excepted from disclosure by the district under Chapter 552, Government Code.

(d) Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or school district publication, if any such purpose has been designated by the district, remains otherwise confidential and may not be released under Chapter 552, Government Code.

(Enacted by Acts 2005, 79th Leg., ch. 687 (S.B. 256), § 1, effective June 17, 2005.)

SUBTITLE F
CURRICULUM, PROGRAMS, AND SERVICES

CHAPTER 28
COURSES OF STUDY; ADVANCEMENT

Subchapter A. Essential Knowledge and Skills; Curriculum

Subchapter B. Advancement, Placement, Credit, and Academic Achievement Record

Subchapter C. Advanced Placement Incentives

SUBCHAPTER A
ESSENTIAL KNOWLEDGE AND SKILLS; CURRICULUM

Sec. 28.001. Purpose.

It is the intent of the legislature that the essential knowledge and skills developed by the State Board of Education under this subchapter shall require all students to demonstrate the knowledge and skills necessary to read, write, compute, problem solve, think critically, apply technology, and communicate across all subject areas. The essential knowledge and skills shall also prepare and enable all students

to continue to learn in postsecondary educational, training, or employment settings.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 28.002. Required Curriculum.

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

(A) English language arts;

(B) mathematics;

(C) science; and

(D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and

(2) an enrichment curriculum that includes:

(A) to the extent possible, languages other than English;

(B) health, with emphasis on the importance of proper nutrition and exercise;

(C) physical education;

(D) fine arts;

(E) career and technology education;

(F) technology applications;

(G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and

(H) personal financial literacy.

(b) The State Board of Education by rule shall designate subjects constituting a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.

(b-1) In this section, "common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative.

(b-2) The State Board of Education may not adopt common core state standards to comply with a duty imposed under this chapter.

(b-3) A school district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels under Subsection (c).

(b-4) Notwithstanding any other provision of this code, a school district or open-enrollment charter school may not be required to offer any aspect of a common core state standards curriculum.

(c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

(c-1) The State Board of Education shall adopt rules requiring students enrolled in grade levels six, seven, and eight to complete at least one fine arts course during those grade levels as part of a district's fine arts curriculum.

(c-2) Each time the Texas Higher Education Coordinating Board revises the Internet database of the coordinating board's official statewide inventory of workforce education courses, the State Board of Education shall by rule revise the essential knowledge and skills of any corresponding career and technology education curriculum as provided by Subsection (c).

(d) The physical education curriculum required under Subsection (a)(2)(C) must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. In identifying the essential knowledge and skills of physical education, the State Board of Education shall ensure that the curriculum:

(1) emphasizes the knowledge and skills capable of being used during a lifetime of regular physical activity;

(2) is consistent with national physical education standards for:

(A) the information that students should learn about physical activity; and

(B) the physical activities that students should be able to perform;

(3) requires that, on a weekly basis, at least 50 percent of the physical education class be used for actual student physical activity and that the activity be, to the extent practicable, at a moderate or vigorous level;

(4) offers students an opportunity to choose among many types of physical activity in which to participate;

(5) offers students both cooperative and competitive games;

(6) meets the needs of students of all physical ability levels, including students who have a dis-

ability, chronic health problem, or other special need that precludes the student from participating in regular physical education instruction but who might be able to participate in physical education that is suitably adapted and, if applicable, included in the student's individualized education program;

(7) takes into account the effect that gender and cultural differences might have on the degree of student interest in physical activity or on the types of physical activity in which a student is interested;

(8) teaches self-management and movement skills;

(9) teaches cooperation, fair play, and responsible participation in physical activity;

(10) promotes student participation in physical activity outside of school; and

(11) allows physical education classes to be an enjoyable experience for students.

(e) American Sign Language is a language for purposes of Subsection (a)(2)(A). A public school may offer an elective course in the language.

(f) A school district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall be flexible in approving a course for credit for high school graduation under this subsection.

(g) A local instructional plan may draw on state curriculum frameworks and program standards as appropriate. Each district is encouraged to exceed minimum requirements of law and State Board of Education rule. Each district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:

(1) includes teacher input;

(2) provides district employees with the opportunity to express opinions regarding the initiative; and

(3) includes a meeting of the board of trustees of the district at which:

(A) information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and

(B) members of the public and district employees are given the opportunity to comment regarding the initiative.

(g-1) A district may also offer a course or other activity, including an apprenticeship or training hours needed to obtain an industry-recognized credential or certificate, that is approved by the board of trustees for credit without obtaining State Board of Education approval if:

(1) the district develops a program under which the district partners with a public or private institution of higher education and local business, labor, and community leaders to develop and provide the courses; and

(2) the course or other activity allows students to enter:

(A) a career or technology training program in the district's region of the state;

(B) an institution of higher education without remediation;

(C) an apprenticeship training program; or

(D) an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit.

(g-2) Each school district shall annually report to the agency the names of the courses, programs, institutions of higher education, and internships in which the district's students have enrolled under Subsection (g-1). The agency shall make available information provided under this subsection to other districts.

(h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

(i) The State Board of Education shall adopt rules for the implementation of this subchapter. Except as provided by Subsection (j), the board may not adopt rules that designate the methodology used by a teacher or the time spent by a teacher or a student on a particular task or subject.

(j) The State Board of Education by rule may require laboratory instruction in secondary science courses and may require a specific amount or percentage of time in a secondary science course that must be laboratory instruction.

(k) The State Board of Education, in consultation with the Department of State Health Services and the Texas Diabetes Council, shall develop a diabetes education program that a school district may use in the health curriculum under Subsection (a)(2)(B).

(*l*) A school district shall require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school cam-

pus's daily recess. To the extent practicable, a school district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week. Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district must provide for an exemption for:

(1) any student who is unable to participate in the required physical activity because of illness or disability; and

(2) a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the commissioner.

(*l*-1) In adopting rules relating to an activity described by Subsection (*l*)(2), the commissioner may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.

(*l*-2) To encourage school districts to promote physical activity for children through classroom curricula for health and physical education, the agency, in consultation with the Department of State Health Services, shall designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum under Subsection (a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).

(*l*-3) (1) This subsection may be cited as "Lauren's Law."

(2) The State Board of Education, the Department of State Health Services, or a school district may not adopt any rule, policy, or program under Subsections (a), (k), (*l*), (*l*-1), or (*l*-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

(A) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or

(B) children at a school-designated function.

(m) Section 2001.039, Government Code, as added by Chapter 1499, Acts of the 76th Legislature, Regular Session, 1999, does not apply to a rule adopted by the State Board of Education under Subsection (c) or (d).

(n) The State Board of Education may by rule develop and implement a plan designed to incorporate foundation curriculum requirements into the career and technology education curriculum under Subsection (a)(2)(E).

(o) In approving career and technology courses, the State Board of Education must determine that at least 50 percent of the approved courses are cost-effective for a school district to implement.

(p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. A school district may use the program developed under this subsection in the district's middle or junior high school curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level. The program must:

(1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;

(2) address relationship skills, including money management, communication skills, and marriage preparation; and

(3) in district middle, junior high, or high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.

(p-1) [Blank.]

(p-2) A school district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed under Subsection (p). The programs and curriculum materials may provide instruction in:

(1) child development;

(2) parenting skills, including child abuse and neglect prevention; and

(3) assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

(p-3) The agency shall evaluate programs and curriculum materials developed under Subsection (p-2) and distribute to other school districts information regarding those programs and materials.

(p-4) A student under 14 years of age may not participate in a program developed under Subsection (p) without the permission of the student's parent or person standing in parental relation to the student.

(q) **[Repealed September 1, 2014]** Notwithstanding any other provision of this title, a school district may not vary the curriculum for a course in the required curriculum under Subsection (a) based on whether a student is enrolled in the minimum, recognized, or advanced high school program.

(r) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning. The agency shall compile a list of evidence-based alcohol awareness programs from which a school district shall choose a program to use in the district's middle school, junior high school, and high school health curriculum. In this subsection, "evidence-based alcohol awareness program" means a program, practice, or strategy that has been proven to effectively prevent or delay alcohol use among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

(s) In this subsection, "bullying" has the meaning assigned by Section 37.0832 and "harassment" has the meaning assigned by Section 37.001. In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under Subsection (a)(2)(B), the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1285 (S.B. 162), art. 4, § 4.02, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 907 (S.B. 19), § 1, effective June 14, 2001; am. Acts 2001, 77th Leg., ch. 925 (S.B. 467), § 3, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1264 (S.B. 815), §§ 1, 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(14), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 254 (H.B. 2176), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 856 (H.B. 1287), § 3, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 529 (S.B. 1344), § 2, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 773 (S.B. 891), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 25, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1419 (H.B. 3076), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1421 (S.B. 1219), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(5), effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 4, effective June 17, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 13, effective July 19, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 8(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(b)(1), effective September 1, 2014; am. Acts 2013, 83rd Leg., ch. 796 (S.B. 1474), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 861 (H.B. 462), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1026 (H.B. 2662), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 773 (S.B. 891), § 3 provides: "Subsection (*l*), Section 28.002, Education Code, as amended by this Act, applies beginning with the 2009-2010 school year."

Acts 2009, 81st Leg., ch. 1419 (H.B. 3076), § 2 and ch. 1421 (S.B. 1219), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 8 provides: "This Act applies beginning with the 2012-2013 school year."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 8(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 28.0021. Personal Financial Literacy.

(a) The Texas essential knowledge and skills and, as applicable, Section 28.025 shall include instruction in personal financial literacy, including instruction in methods of paying for college and other postsecondary education and training, in:

(1) mathematics instruction in kindergarten through grade eight; and

(2) one or more courses offered for high school graduation.

(b) Each school district and each open-enrollment charter school that offers a high school program shall provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit under Section 28.025, using materials approved by the State Board of Education. The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the United States Department of Education. In fulfilling the requirement to provide financial literacy instruction under this section, a school district or open-enrollment charter school may use an existing state, federal,

private, or nonprofit program that provides students without charge the instruction described under this section.

(c) **[Expires September 1, 2014]** The State Board of Education shall, not later than January 31, 2012, identify the essential knowledge and skills of personal financial literacy instruction to include instruction in methods of paying for college and other postsecondary education and training and shall, not later than August 31, 2012, approve under Subsection (b) materials that provide for such instruction. Beginning with the 2013-2014 school year, each school district and each open-enrollment charter school that offers a high school program shall include, in the elective course in personal financial literacy, instruction in methods of paying for college and other postsecondary education and training and use materials approved for that purpose under Subsection (b). This subsection expires September 1, 2014.

(Enacted by Acts 2005, 79th Leg., ch. 494 (H.B. 492), § 1, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 214 (H.B. 34), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 885 (S.B. 290), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 1026 (H.B. 2662), §§ 2, 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 214 (H.B. 34), § 2 provides: "Section 28.0021(c), Education Code, as added by this Act, applies to a student entering grade nine on or after the effective date of this Act [June 17, 2011]."

Acts 2011, 82nd Leg., ch. 885 (S.B. 290), § 4 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 28.0022. [Expires September 1, 2014] Review Panel for Career and Technical Education Curriculum.

(a) Not later than November 1, 2007, the agency shall establish a panel under this section to:

(1) review and recommend revisions to the career and technical education curriculum under Section 28.002(a)(2)(E); and

(2) review and recommend revisions for the program in which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses.

(b) The panel established under this section shall consist of:

(1) individuals who have expertise developing or administering career and technical education programs; and

(2) employers who hire students who have obtained certification or credentials under a career and technical education program.

(c) A member of the panel serves on a voluntary basis without compensation.

(d) Not later than November 1, 2008, the panel shall:

(1) complete the review as required by this section of:

(A) the career and technical education curriculum; and

(B) the program under which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses; and

(2) make recommendations to the State Board of Education as necessary to:

(A) increase the academic rigor of the career and technical education curriculum under Section 28.002(a)(2)(E); and

(B) improve and increase participation in the program under which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses.

(e) Not later than September 1, 2009, the State Board of Education by rule shall revise the essential knowledge and skills of the career and technical education curriculum as provided by Section 28.002(c) based on the recommendations of the panel under Subsection (d). The State Board of Education shall require school districts to provide instruction in the career and technical education curriculum, as revised under this subsection, beginning with the 2010-2011 school year.

(f) This section expires September 1, 2014.

(Enacted by Acts 2007, 80th Leg., ch. 763 (H.B. 3485), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 14, effective July 19, 2011.)

Sec. 28.00222. [Expires September 1, 2015] Increase in Advanced Technology and Career-Related Courses.

(a) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 211]** Not later than September 1, 2014, the State Board of Education shall ensure that at least six advanced career and technology education or technology applications courses, including courses in personal financial literacy consistent with Section 28.0021 and in statistics, are approved to satisfy a fourth credit in mathematics.

(a) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 214]** Not later than September 1, 2014, the State Board of Education shall ensure that at least six advanced career and technology education or technology applications courses, including a course in personal financial literacy that is consistent with Section 28.0021, are approved to satisfy a fourth credit in mathematics required for high school graduation.

(b) Not later than January 1, 2015, the commissioner shall review and report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the legislature with primary responsibility over public primary and secondary education regarding the progress of increasing the number of courses approved for the career and technology education or technology applications curriculum. The commissioner shall include in the report a detailed description of any new courses, including instructional materials and required equipment, if any.

(c) This section expires September 1, 2015.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 9, effective June 10, 2013; Enacted by Acts 2013, 83rd Leg., ch. 214 (H.B. 2201), § 1, effective September 1, 2013.)

Sec. 28.0023. Cardiopulmonary Resuscitation and Automated External Defibrillator Instruction.

(a) [Repealed by Acts 2013, 83rd Leg., ch. 1269 (H.B. 897), § 3, effective June 14, 2013.]

(b) The State Board of Education by rule shall require instruction in cardiopulmonary resuscitation for students in grades 7 through 12.

(c) A school district or open-enrollment charter school shall provide instruction to students in grades 7 through 12 in cardiopulmonary resuscitation in a manner consistent with the requirements of this section and State Board of Education rules adopted under this section. The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation.

(d) A school administrator may waive the curriculum requirement under this section for an eligible student who has a disability.

(e) Cardiopulmonary resuscitation instruction must include training that has been developed:

(1) by the American Heart Association or the American Red Cross; or

(2) using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

(f) For purposes of Subsection (e), "psychomotor skills" means hands-on practice to support cognitive learning. The term does not include cognitive-only instruction and training.

(g) A school district or open-enrollment charter school may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training under this section. Instruction provided under this section is not required to result in certification in cardiopulmonary resuscitation. If instruction is intended to result in certification in cardiopulmonary resuscitation, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association.

(Enacted by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 4, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 1269 (H.B. 897), §§ 2, 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1269 (H.B. 897), § 4 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 28.003. Educational Program Access.

(a) If the parents or guardians of at least 22 students at a school request a transfer for the same school year to another school in the district for the purpose of enrolling in an educational program offered at that school, beginning with the following school year the district shall:

(1) offer the program at the school from which the transfers were requested; or

(2) offer the program at the school from which the transfers were requested by teleconference, if available to the district.

(b) In this section, "educational program" means a course or series of courses in the required curriculum under Section 28.002, other than a fine arts course under Section 28.002(a)(2)(D) or a career and technology course under Section 28.002(a)(2)(E).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 15, effective July 19, 2011.)

Sec. 28.004. Local School Health Advisory Council and Health Education Instruction.

(a) The board of trustees of each school district shall establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.

(b) A school district must consider the recommendations of the local school health advisory council before changing the district's health education curriculum or instruction.

(c) The local school health advisory council's duties include recommending:

(1) the number of hours of instruction to be provided in health education;

(2) policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns through coordination of:

(A) health education;

(B) physical education and physical activity;

(C) nutrition services;

(D) parental involvement;

(E) instruction to prevent the use of tobacco;

(F) school health services;

(G) counseling and guidance services;

(H) a safe and healthy school environment; and

(I) school employee wellness;

(3) appropriate grade levels and methods of instruction for human sexuality instruction;

(4) strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:

(A) school health services;

(B) counseling and guidance services;

(C) a safe and healthy school environment; and

(D) school employee wellness; and

(5) if feasible, joint use agreements or strategies for collaboration between the school district and community organizations or agencies.

(d) The board of trustees shall appoint at least five members to the local school health advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the council. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:

(1) public school teachers;

(2) public school administrators;

(3) district students;

(4) health care professionals;

(5) the business community;

(6) law enforcement;

(7) senior citizens;

(8) the clergy;

(9) nonprofit health organizations; and

(10) local domestic violence programs.

(d-1) The local school health advisory council shall meet at least four times each year.

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

(1) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;

(2) devote more attention to abstinence from sexual activity than to any other behavior;

(3) emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(4) direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and

(5) teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

(f) A school district may not distribute condoms in connection with instruction relating to human sexuality.

(g) A school district that provides human sexuality instruction may separate students according to sex for instructional purposes.

(h) The board of trustees shall determine the specific content of the district's instruction in human sexuality, in accordance with Subsections (e), (f), and (g).

(i) Before each school year, a school district shall provide written notice to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

(1) a summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;

(2) a statement of the parent's right to:

(A) review curriculum materials as provided by Subsection (j); and

(B) remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary ac-

tion, academic penalty, or other sanction imposed by the district or the student's school; and

(3) information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).

(i-1) A parent may use the grievance procedure adopted under Section 26.011 concerning a complaint of a violation of Subsection (i).

(j) A school district shall make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(1) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(*l*);

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and

(3) a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.

(*l*) The local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any policy recommendation made to the district under this subsection.

(*l*-1) The local school health advisory council shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students.

(m) In addition to performing other duties, the local school health advisory council shall submit to the board of trustees, at least annually, a written report that includes:

(1) any council recommendation concerning the school district's health education curriculum and instruction or related matters that the council has not previously submitted to the board;

(2) any suggested modification to a council recommendation previously submitted to the board;

(3) a detailed explanation of the council's activities during the period between the date of the current report and the date of the last prior written report; and

(4) any recommendations made by the physical activity and fitness planning subcommittee.

(m-1), (m-2) [Expired pursuant to Acts 2009, 81st Leg., ch. 729 (S.B. 283), § 1, effective April 30, 2010.]

(n) Any joint use agreement that a school district and community organization or agency enter into based on a recommendation of the local school health advisory council under Subsection (c)(5) must address liability for the school district and community organization or agency in the agreement.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 907 (S.B. 19), § 2, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 944 (S.B. 1357), §§ 1, 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 729 (S.B. 283), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1235 (S.B. 736), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 892 (H.B. 1018), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1321 (S.B. 460), § 3, effective September 1, 2013.)

Sec. 28.005. Language of Instruction.

(a) Except as provided by this section, English shall be the basic language of instruction in public schools.

(b) It is the policy of this state to ensure the mastery of English by all students, except that bilingual instruction may be offered or permitted in situations in which bilingual instruction is necessary to ensure students' reasonable proficiency in the English language and ability to achieve academic success.

(c) A school district may adopt a dual language immersion program for students enrolled in elementary school grades as provided by Section 28.0051.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 925 (S.B. 467), § 1, effective June 14, 2001.)

Sec. 28.0051. Dual Language Immersion Program.

(a) A dual language immersion program should be designed to produce students with a demonstrated mastery, in both English and one other language, of the required curriculum under Section 28.002(a).

(b) The commissioner by rule shall adopt:

(1) minimum requirements for a dual language immersion program implemented by a school district;

(2) standards for evaluating:

(A) the success of a dual language immersion program; and

(B) the performance of schools that implement a dual language immersion program; and

(3) standards for recognizing:

(A) schools that offer an exceptional dual language immersion program; and

(B) students who successfully complete a dual language immersion program.

(c) A school district may implement a dual language immersion program in a manner and at elementary grade levels consistent with rules adopted by the commissioner under this section.

(Enacted by Acts 2001, 77th Leg., ch. 925 (S.B. 467), § 2, effective June 14, 2001.)

Sec. 28.0052. Dual Language Education Pilot Project [Expired].

(a) Expired pursuant to Acts 2007, 80th Leg., ch. 1255 (H.B. 2814), § 1, effective August 1, 2013.

(Enacted by Acts 2007, 80th Leg., ch. 1255 (H.B. 2814), § 1, effective June 15, 2007.)

Sec. 28.0053. Dual Language Education Pilot Project: Community Educational Pipeline Progress Team [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1255 (H.B. 2814), § 1, effective August 1, 2013.

(Enacted by Acts 2007, 80th Leg., ch. 1255 (H.B. 2814), § 1, effective June 15, 2007.)

Sec. 28.0054. Contract for Language Learning Software [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1255 (H.B. 2814), § 1, effective August 1, 2013.

(Enacted by Acts 2007, 80th Leg., ch. 1255 (H.B. 2814), § 1, effective June 15, 2007.)

Sec. 28.006. Reading Diagnosis.

(a) The commissioner shall develop recommendations for school districts for:

(1) administering reading instruments to diagnose student reading development and comprehension;

(2) training educators in administering the reading instruments; and

(3) applying the results of the reading instruments to the instructional program.

(b) The commissioner shall adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension. For use in diagnosing the reading development and comprehension of kindergarten students, the commissioner shall include on the commissioner's list at least two multidimensional assessment tools. A multidimensional assessment tool on the commissioner's list must either include a reading instrument and test at least three developmental skills, including literacy, or test at least two developmental skills, other than literacy, and be administered in conjunction with a separate reading instrument that is on a list adopted under this subsection. A multidimensional assessment tool administered as provided by this subsection is considered to be a reading instrument for purposes of this section. A district-level committee established under Subchapter F, Chapter 11, may adopt a list of reading instruments for use in the district in addition to the reading instruments on the commissioner's list. Each reading instrument adopted by the commissioner or a district-level committee must be based on scientific research concerning reading skills development and reading comprehension. A list of reading instruments adopted under this subsection must provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29.

(c) Each school district shall administer, at the kindergarten and first and second grade levels, a reading instrument on the list adopted by the commissioner or by the district-level committee. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(c-1) Each school district shall administer at the beginning of the seventh grade a reading instrument adopted by the commissioner to each student whose performance on the assessment instrument in reading administered under Section 39.023(a) to the student in grade six did not demonstrate reading proficiency, as determined by the commissioner. The district shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(d) The superintendent of each school district shall:

(1) report to the commissioner and the board of trustees of the district the results of the reading instruments;

(2) report, in writing, to a student's parent or guardian the student's results on the reading instrument; and

(3) using the school readiness certification system provided to the school district in accordance with Section 29.161(e), report electronically each student's raw score on the reading instrument to the agency for use in the school readiness certification system.

(d-1) The agency shall contract with the State Center for Early Childhood Development to receive and use scores under Subsection (d)(3) on behalf of the agency.

(e) The results of reading instruments administered under this section may not be used for purposes of appraisals and incentives under Chapter 21 or accountability under Chapter 39.

(f) This section may be implemented only if funds are appropriated for administering the reading instruments. Funds, other than local funds, may be used to pay the cost of administering a reading instrument only if the instrument is on the list adopted by the commissioner.

(g) A school district shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on a reading instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection.

(g-1) A school district shall provide additional reading instruction and intervention to each student in seventh grade assessed under Subsection (c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by this subsection shall be provided by regional education service centers and teacher reading academies established under Section 21.4551, and may be provided by other public and private providers.

(h) The school district shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language.

(i) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds.

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(5) and may implement interventions or sanctions under Subchapter E, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(k) The provisions of this section relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the commissioner certifies that funds have been appropriated during a school year for administering the accelerated reading instruction program specified under this section.

(*l*), (m) [Expired pursuant to Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 2.11, effective January 1, 2002.]

(Enacted by Acts 1997, 75th Leg., ch. 397 (H.B. 107), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, d§ 2.11, effective September 1, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 3, § 3.05, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 6, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 26, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1314 (S.B. 172), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1314 (S.B. 172), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 28.007. Mathematics Diagnosis.

(a) Using funds appropriated for the purpose, the commissioner shall develop and make available or contract for the development and dissemination of assessment instruments that a school district may use to diagnose student mathematics skills. In de-

veloping the assessment instruments, all assessment methods available through advanced technology, including methods using the Internet or other computer resources to provide immediate assessment of a student's skills, shall be considered.

(b) The results of assessment instruments developed under Subsection (a) may not be used for purposes of appraisals and incentives under Chapter 21 or accountability under Chapter 39.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 7, effective September 1, 2001.)

Sec. 28.008. Advancement of College Readiness in Curriculum.

(a) To ensure that students are able to perform college-level course work at institutions of higher education, the commissioner of education and the commissioner of higher education shall establish vertical teams composed of public school educators and institution of higher education faculty.

(b) The vertical teams shall:

(1) recommend for approval by the commissioner of education and the Texas Higher Education Coordinating Board college readiness standards and expectations that address what students must know and be able to do to succeed in entry-level courses offered at institutions of higher education;

(2) evaluate whether the high school curriculum requirements under Section 28.002 and other instructional requirements serve to prepare students to successfully perform college-level course work;

(3) recommend how the public school curriculum requirements can be aligned with college readiness standards and expectations;

(4) develop instructional strategies for teaching courses to prepare students to successfully perform college-level course work;

(5) develop or establish minimum standards for curricula, professional development materials, and online support materials in English language arts, mathematics, science, and social studies, designed for students who need additional assistance in preparing to successfully perform college-level course work; and

(6) periodically review and revise the college readiness standards and expectations developed under Subdivision (1) and recommend revised standards for approval by the commissioner of education and the Texas Higher Education Coordinating Board.

(c) The commissioner of education and the Texas Higher Education Coordinating Board by rule shall:

(1) establish the composition and duties of the vertical teams established under this section; and

(2) establish a schedule for the periodic review required under Subsection (b)(6), giving consideration to the cycle of review and identification under Section 28.002 of the essential knowledge and skills of subjects of the required curriculum.

(d) The State Board of Education shall incorporate college readiness standards and expectations approved by the commissioner of education and the Texas Higher Education Coordinating Board under Subsection (b) into the essential knowledge and skills identified by the board under Section 28.002(c).

(d-1) [Expired pursuant to Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 7, effective December 1, 2012.]

(e) Notwithstanding any other provision of this section, the State Board of Education retains its authority under Section 28.002 concerning the required curriculum.

(f) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.01, effective December 1, 2012.]

(g) The agency shall coordinate with the Texas Higher Education Coordinating Board as necessary in administering this section.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.01, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 7, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 1014 (H.B. 2549), § 1, effective June 14, 2013.)

Sec. 28.009. College Credit Program.

(a) Each school district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. On request, a public institution of higher education in this state shall assist a school district in developing and implementing the program. The college credit may be earned through:

(1) international baccalaureate, advanced placement, or dual credit courses;

(2) articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or

(3) any combination of the courses described by Subdivisions (1) and (2).

(a-1) A program implemented under this section may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

(1) that:

(A) satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree; and

(B) is approved by the Texas Higher Education Coordinating Board; and

(2) for which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

(a-2) A school district is not required to pay a student's tuition or other associated costs for taking a course under this section.

(b) The agency shall coordinate with the Texas Higher Education Coordinating Board as necessary in administering this section. The commissioner may adopt rules as necessary concerning the duties under this section of a school district. The Texas Higher Education Coordinating Board may adopt rules as necessary concerning the duties under this section of a public institution of higher education.

(c) The commissioner and the Texas Higher Education Coordinating Board shall share data as necessary to enable school districts to comply with this subsection. Each school district shall annually report to the agency:

(1) the number of district students, including career and technical students, who have participated in the program; and

(2) the courses in which participating district students have earned high school credit under this section.

(c-1) The Texas Higher Education Coordinating Board shall collect student course credit data from public institutions of higher education as necessary for purposes of Subsection (c).

(d) In this section:

(1) "Career and technical student" means:

(A) a secondary education student who has entered the first course in a sequence of two or more technical courses for three or more credits in a career and technical education program; or

(B) a student who:

(i) is enrolled in an academic or workforce course that is part of a sequence of courses leading to an industry-recognized credential, certificate, or degree; and

(ii) has declared that sequence of courses as the student's major course of study.

(2) "Sequence of courses" means career and technical education courses approved by the State Board of Education, innovative courses approved by the State Board of Education that are provided for local credit, or a tech-prep program of study under Section 61.852.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.01, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 763 (H.B. 3485), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 15, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 369 (S.B. 149), §§ 1, 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 369 (S.B. 149), §§ 3, 4, effective September 1, 2013; am. Acts 2011, 82nd Leg., ch. 1104 (S.B. 1619), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 213 (H.B. 842), § 1, effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 424 (S.B. 435), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 213 (H.B. 842), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 28.010. Notification Regarding College Credit Programs.

(a) Each school year, a school district shall notify the parent of each district student enrolled in grade nine or above of the availability of programs in the district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs.

(b) A school district may provide the notification required by this section on the district's Internet website. The notification must include the name and contact information of any public or private entity offering a program described by this section in the district.

(Enacted by Acts 2007, 80th Leg., ch. 973 (S.B. 282), § 1, effective June 15, 2007.)

Sec. 28.011. Elective Courses on the Bible's Hebrew Scriptures (Old Testament) and New Testament and Their Impact on the History and Literature of Western Civilization.

(a) A school district may offer to students in grade nine or above:

(1) an elective course on the Hebrew Scriptures (Old Testament) and its impact and an elective course on the New Testament and its impact; or

(2) an elective course that combines the courses described by Subdivision (1).

(b) The purpose of a course under this section is to:

(1) teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding contemporary society and culture, including literature, art, music, mores, oratory, and public policy; and

(2) familiarize students with, as applicable:

(A) the contents of the Hebrew Scriptures or New Testament;

(B) the history of the Hebrew Scriptures or New Testament;

(C) the literary style and structure of the Hebrew Scriptures or New Testament; and

(D) the influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.

(c) A student may not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic instructional material a different translation of the Hebrew Scriptures or New Testament from that chosen by the board of trustees of the student's school district or the student's teacher.

(d) A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in their school district. A course under this section shall not endorse, favor, or promote, or disfavor or show hostility toward, any particular religion or nonreligious faith or religious perspective. Nothing in this statute is intended to violate any provision of the United States Constitution or federal law, the Texas Constitution or any state law, or any rules or guidelines provided by the United States Department of Education or the Texas Education Agency.

(e) Before adopting rules identifying the essential knowledge and skills of a course offered under this section, the State Board of Education shall submit the proposed essential knowledge and skills to the attorney general. The attorney general shall review the proposed essential knowledge and skills to ensure that the course complies with the First Amendment to the United States Constitution, and the board may not adopt rules identifying the essential knowledge and skills of a course offered under this section without the attorney general's approval under this subsection.

(f) A teacher of a course offered under this section must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religion or biblical studies. A teacher selected to teach a course under this section shall successfully complete staff development training outlined in Section 21.459. A course under this section may only be taught by a teacher who has successfully completed training under Section 21.459.

(g) For the purpose of a student earning credit for high school graduation, a school district shall grant one-half academic elective credit for satisfactory completion of a course on the Hebrew Scriptures, one-half academic elective credit for satisfactory completion of a course on the New Testament, and one-half academic elective credit for satisfactory completion of a combined course on both the Hebrew Scriptures and the New Testament. This subsection applies only to a course that is taught in strict compliance with this section.

(h) If, for a particular semester, fewer than 15 students at a school district campus register to enroll in a course required by this section, the district is not required to offer the course at that campus for that semester.

(i) This section does not prohibit the board of trustees of a school district from offering an elective course based on the books of a religion other than Christianity. In determining whether to offer such a course, the board may consider various factors, including student and parent demand for such a course and the impact such books have had on history and culture.

(j) This section does not prohibit a school district from offering a course, other than the course authorized by this section, in the academic study of the Hebrew Scriptures, the New Testament, or both for local credit or for state elective credit towards high school graduation.

(Enacted by Acts 2007, 80th Leg., ch. 856 (H.B. 1287), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 16, effective July 19, 2011.)

Sec. 28.013. Nature Science Curriculum Project.

(a) The State Board of Education shall assist in developing a nature science curriculum, in accordance with this section, the following entities, acting jointly:

(1) the Outdoor School at Texas Tech University Center at Junction;

(2) the Texas Science, Technology, Engineering, and Math (T-STEM) Center of Texas Tech University; and

(3) South Llano River State Park.

(b) The nature science curriculum must:

(1) be designed for instruction of students in grades six through 12;

(2) provide for grade-level appropriate instruction in essential knowledge and skills identified by the State Board of Education under Section 28.002 for:

(A) science; and

(B) mathematics, social studies, and language arts, to the extent practicable and relevant to nature science studies;

(3) through participation in outdoor experiential learning projects in state parks, provide for the scientific study by students of:

(A) conservation, wildlife or aquatic biology, range ecology, or other areas of nature science; and

(B) problems affecting nature, such as threats to the watershed, and possible solutions to those problems; and

(4) be designed to:

(A) be capable of implementation in any state park;

(B) use state park resources in providing instruction; and

(C) be presented by classroom teachers and state park employees.

(c) The Texas Science, Technology, Engineering, and Math (T-STEM) Center of Texas Tech University shall make the nature science curriculum available through the university's Internet website or through a separate Internet website developed by the center for that purpose.

(d) The Texas Tech University Center at Junction, with assistance from South Llano River State Park, shall present to classroom teachers and state park employees staff development courses in providing instruction in the nature science curriculum.

(e) The nature science curriculum project must be implemented and maintained using money appropriated for those purposes.

(Enacted by Acts 2007, 80th Leg., ch. 300 (H.B. 1700), § 1, effective June 15, 2007.)

Sec. 28.014. College Preparatory Courses.

(a) Each school district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

(1) for students at the 12th grade level whose performance on:

(A) an end-of-course assessment instrument required under Section 39.023(c) does not meet college readiness standards; or

(B) coursework, a college entrance examination, or an assessment instrument designated under Section 51.3062(c) indicates that the student is not ready to perform entry-level college coursework; and

(2) to prepare students for success in entry-level college courses.

(b) A course developed under this section must be provided:

(1) on the campus of the high school offering the course; or

(2) through distance learning or as an online course provided through an institution of higher education with which the school district partners as provided by Subsection (a).

(c) Appropriate faculty of each high school offering courses under this section and appropriate faculty of each institution of higher education with which the school district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations. The commissioner of education, in coordination with the commissioner of higher education, may adopt rules to administer this subsection.

(d) Each school district shall provide a notice to each district student to whom Subsection (a) applies and the student's parent or guardian regarding the benefits of enrolling in a course under this section.

(e) A student who successfully completes an English language arts course developed under this section may use the credit earned in the course toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Section 28.025(b-1)(1). A student who successfully completes a mathematics course developed under this section may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Section 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Section 28.025(b-1)(2).

(f) A course provided under this section may be offered for dual credit at the discretion of the institution of higher education with which a school district partners under this section.

(g) Each school district, in consultation with each institution of higher education with which the district partners, shall develop or purchase instructional materials for a course developed under this section consistent with Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

(h) **[Expires September 1, 2015]** To the extent applicable, a district shall draw from curricula and instructional materials developed under Section 28.008 in developing a course and related instructional materials under this section. A course developed under this section and the related instructional materials shall be made available to students not later than the 2014-2015 school year. This subsection expires September 1, 2015.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 8(a), effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 27, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 10(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 10(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 28.0141. Study and Report on Early College Readiness Assessments

[Expired].

Expired pursuant to Acts 2011, 82nd Leg., ch. 1183 (H.B. 3468), § 1, effective January 1, 2013. (Enacted by Acts 2011, 82nd Leg., ch. 1183 (H.B. 3468), § 1, effective June 17, 2011.)

SUBCHAPTER B
ADVANCEMENT, PLACEMENT, CREDIT, AND ACADEMIC ACHIEVEMENT RECORD

Sec. 28.021. Student Advancement.

(a) A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level.

(b) In measuring the academic achievement or proficiency of a student who is dyslexic, the student's potential for achievement or proficiency in the area must be considered.

(c) In determining promotion under Subsection (a), a school district shall consider:

(1) the recommendation of the student's teacher;

(2) the student's grade in each subject or course;

(3) the student's score on an assessment instrument administered under Section 39.023(a), (b), or (*l*), to the extent applicable; and

(4) any other necessary academic information, as determined by the district.

(d) By the start of the school year, a district shall make public the requirements for student advancement under this section.

(e) The commissioner shall provide guidelines to districts based on best practices that a district may use when considering factors for promotion.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 28, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 307 (H.B. 2135), § 1, effective June 17, 2011.)

Sec. 28.0211. Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction.

(a) Except as provided by Subsection (b) or (e), a student may not be promoted to:

(1) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(2) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(a-1) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

(a-2) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.

(a-3) The commissioner shall provide guidelines to districts on research-based best practices and effective strategies that a district may use in developing an accelerated instruction program.

(b) A school district shall provide to a student who initially fails to perform satisfactorily on an assessment instrument specified under Subsection (a) at least two additional opportunities to take the assessment instrument. A school district may administer an alternate assessment instrument to a student who has failed an assessment instrument specified under Subsection (a) on the previous two opportunities. Notwithstanding any other provision of this section, a student may be promoted if the student performs at grade level on an alternate assessment instrument under this subsection that is appropriate for the student's grade level and approved by the commissioner.

(c) Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. After a student fails to perform satisfactorily on an assessment instrument a second time, a grade placement committee shall be established to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily.

The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee. An accelerated instruction group administered by a school district under this section may not have a ratio of more than 10 students for each teacher.

(d) In addition to providing accelerated instruction to a student under Subsection (c), the district shall notify the student's parent or guardian of:

(1) the student's failure to perform satisfactorily on the assessment instrument;

(2) the accelerated instruction program to which the student is assigned; and

(3) the possibility that the student might be retained at the same grade level for the next school year.

(e) A student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) shall be retained at the same grade level for the next school year in accordance with Subsection (a). The student's parent or guardian may appeal the student's retention by submitting a request to the grade placement committee established under Subsection (c). The school district shall give the parent or guardian written notice of the opportunity to appeal. The grade placement committee may decide in favor of a student's promotion only if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction, the student is likely to perform at grade level. A student may not be promoted on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a time line for making the placement determination. This subsection does not create a property interest in promotion. The decision of the grade placement committee is final and may not be appealed.

(f) A school district shall provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c). The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.

(g) This section does not preclude the retention at a grade level, in accordance with state law or school district policy, of a student who performs satisfactorily on an assessment instrument specified under Subsection (a).

(h) In each instance under this section in which a school district is specifically required to provide notice to a parent or guardian of a student, the district shall make a good faith effort to ensure that such notice is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English or the parent or guardian's native language.

(i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) shall determine:

(1) the manner in which the student will participate in an accelerated instruction program under this section; and

(2) whether the student will be promoted or retained under this section.

(j) A school district or open-enrollment charter school shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours.

(k) The commissioner shall adopt rules as necessary to implement this section, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.054.

(*l*) [Repealed by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 17, effective June 15, 2007.]

(*l*-1) The commissioner may adopt rules requiring a school district that receives federal funding under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.) to use that funding to provide supplemental educational services under 20 U.S.C. Section 6316 in conjunction with the accelerated instruction provided under this section, provided that the rules may not conflict with federal law governing the use of that funding.

(m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section and Section 28.0217. A determination by the commissioner is final and may not be appealed. For

purposes of certification, the commissioner shall consider:

(1) the average cost per student per assessment instrument administration;

(2) the number of students that require accelerated instruction because the student failed to perform satisfactorily on an assessment instrument;

(3) whether sufficient funds have been appropriated to provide support to students in grades three through 12 identified as being at risk of dropping out of school, as defined in Section 29.081(d); and

(4) whether sufficient funds have been appropriated to provide instructional materials that are aligned with the assessment instruments under Sections 39.023(a) and (c).

(m-1) For purposes of certification under Subsection (m), the commissioner may not consider Foundation School Program funds except for compensatory education funds under Section 42.152. This section may be implemented only if the commissioner certifies that sufficient funds have been appropriated during a school year for administering the accelerated instruction programs specified under this section and Section 28.0217, including teacher training for that purpose.

(n) A student who is promoted by a grade placement committee under this section must be assigned in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to a teacher who meets all state and federal qualifications to teach that subject and grade.

(o) This section does not require the administration of a fifth or eighth grade assessment instrument in a subject under Section 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

(1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Section 39.023(a) that aligns with the curriculum for the course in which the student is enrolled; or

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Section 39.023(c) for the course.

(p) Notwithstanding any other provision of this section, a student described by Subsection (o) may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student in accordance with that subsection.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.12, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), §§ 9, 17, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 29, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.006, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 307 (H.B. 2135), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 11, effective June 10, 2013.)

Sec. 28.0212. Junior High or Middle School Personal Graduation Plan.

(a) A principal of a junior high or middle school shall designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan for each student enrolled in the junior high or middle school who:

(1) does not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39; or

(2) is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level nine, as determined by the district.

(b) A personal graduation plan under this section must:

(1) identify educational goals for the student;

(2) include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;

(3) include an intensive instruction program described by Section 28.0213;

(4) address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and

(5) provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, on-line instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

(c) Notwithstanding Subsection (b), a student's individualized education program developed under Section 29.005 may be used as the student's personal graduation plan under this section.

(d) The agency shall establish minimum standards for a personal graduation plan under this section.

(e) **[Repealed September 1, 2014]** Each school district is encouraged to establish for each student entering grade nine a personal graduation plan that identifies a course of study that:

(1) promotes:

(A) college and workforce readiness; and

(B) career placement and advancement; and

(2) facilitates the student's transition from secondary to postsecondary education.

(f) [Blank.]

(g) [Repealed by Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.003, effective September 1, 2013 and by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(b)(2), effective September 1, 2014.]

(Enacted by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 7, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 763 (H.B. 3485), § 3, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 10, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.003, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 12(a), 13(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(b)(2), effective September 1, 2014; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 19, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 13(b) and 12(b) provide: "This section applies beginning with the 2014-2015 school year."

Sec. 28.02121. High School Personal Graduation Plan.

(a) The agency, in consultation with the Texas Workforce Commission and the Texas Higher Education Coordinating Board, shall prepare and make available to each school district in English and Spanish information that explains the advantages of the distinguished level of achievement described by Section 28.025(b-15) and each endorsement described by Section 28.025(c-1). The information must contain an explanation:

(1) concerning the benefits of choosing a high school personal graduation plan that includes the distinguished level of achievement under the foundation high school program and includes one or more endorsements to enable the student to achieve a class rank in the top 10 percent for students at the campus; and

(2) that encourages parents, to the greatest extent practicable, to have the student choose a high school personal graduation plan described by Subdivision (1).

(b) A school district shall publish the information provided to the district under Subsection (a) on the Internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students in the language in which the parents or legal guardians are most proficient. A district is required to provide information under this subsection in the language in which the parents or legal guardians are most proficient only if at least 20 students in a grade level primarily speak that language.

(c) A principal of a high school shall designate a school counselor or school administrator to review personal graduation plan options with each student entering grade nine together with that student's parent or guardian. The personal graduation plan options reviewed must include the distinguished level of achievement described by Section 28.025(b-15) and the endorsements described by Section 28.025(c-1). Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a personal graduation plan for the student.

(d) A personal graduation plan under Subsection (c) must identify a course of study that:

(1) promotes:

(A) college and workforce readiness; and

(B) career placement and advancement; and

(2) facilitates the student's transition from secondary to postsecondary education.

(e) A school district may not prevent a student and the student's parent or guardian from confirming a personal graduation plan that includes pursuit of a distinguished level of achievement or an endorsement.

(f) A student may amend the student's personal graduation plan after the initial confirmation of the plan under this section. If a student amends the student's personal graduation plan, the school shall send written notice to the student's parents regarding the change.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 14(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 14(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 28.0213. Intensive Program of Instruction.

(a) A school district shall offer an intensive program of instruction to a student who:

(1) does not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39; or

(2) is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district.

(b) A school district shall design the intensive program of instruction described by Subsection (a) to:

(1) enable the student to:

(A) to the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or

(B) attain a standard of annual growth specified by the school district and reported by the district to the agency; and

(2) if applicable, carry out the purposes of Section 28.0211.

(c) A school district shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements. The commissioner shall distribute funds to districts that implement a program under this section based on the number of students identified by the district who:

(1) do not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39; or

(2) are not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district.

(d) A school district's determination of the appropriateness of a program for a student under this section is final and does not create a cause of action.

(e) For a student in a special education program under Subchapter A, Chapter 29, who does not perform satisfactorily on an assessment instrument administered under Section 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:

(1) enable the student to attain a standard of annual growth on the basis of the student's individualized education program; and

(2) if applicable, carry out the purposes of Section 28.0211.

(Enacted by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 7, effective June 20, 2003; am. Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 5 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 28.0214. Finality of Grade.

(a) An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the school district grading policy applicable to the grade, as determined by the board of trustees of the school district in which the teacher is employed.

(b) A determination by a school district board of trustees under Subsection (a) is not subject to appeal. This subsection does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Section 33.081.

(Enacted by Acts 2003, 78th Leg., ch. 194 (H.B. 1949), § 1, effective June 2, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(14), effective September 1, 2005 (renumbered from Sec. 28.0212).)

Sec. 28.0216. District Grading Policy.

A school district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. A district grading policy:

(1) must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;

(2) may not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and

(3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

(Enacted by Acts 2009, 81st Leg., ch. 1236 (S.B. 2033), § 1, effective June 19, 2009.)

Sec. 28.0217. Accelerated Instruction for High School Students.

Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(c), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, using funds appropriated for accelerated instruction under Section 28.0211. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 15, effective June 10, 2013.)

Sec. 28.022. Notice to Parent of Unsatisfactory Performance.

(a) The board of trustees of each school district shall adopt a policy that:

(1) provides for a conference between parents and teachers;

(2) requires the district, at least once every 12 weeks, to give written notice to a parent of a student's performance in each class or subject; and

(3) requires the district, at least once every three weeks, or during the fourth week of each

nine-week grading period, to give written notice to a parent or legal guardian of a student's performance in a subject included in the foundation curriculum under Section 28.002(a)(1) if the student's performance in the subject is consistently unsatisfactory, as determined by the district.

(b) The notice required under Subsections (a)(2) and (a)(3) must:

(1) provide for the signature of a student's parent; and

(2) be returned to the district.

(c) A policy adopted under this section does not apply to a student who:

(1) is 18 years of age or older and who is living in a different residence than the student's parents;

(2) is married; or

(3) has had the disabilities of minority removed for general purposes.

(d) In this section, "parent" includes a guardian, conservator, or other person having lawful control of a student.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1237 (S.B. 858), § 1, effective August 30, 1999.)

Sec. 28.023. Credit by Examination.

(a) Using guidelines established by the State Board of Education, a school district shall develop or select for review by the district board of trustees examinations for acceleration for each primary school grade level and for credit for secondary school academic subjects. The guidelines must provide for the examinations to thoroughly test comprehension of the information presented in the applicable grade level or subject. The board of trustees shall approve for each subject, to the extent available, at least four examinations that satisfy State Board of Education guidelines. The examinations approved by the board of trustees must include:

(1) advanced placement examinations developed by the College Board; and

(2) examinations administered through the College-Level Examination Program.

(b) A school district shall give a student in a primary grade level credit for a grade level and advance the student one grade level on the basis of an examination for acceleration approved by the board of trustees under Subsection (a) if:

(1) the student scores in the 80th percentile or above on each section of the examination;

(2) a district representative recommends that the student be advanced; and

(3) the student's parent or guardian gives written approval of the advancement.

(c) A school district shall give a student in grade level six or above credit for a subject on the basis of an examination for credit in the subject approved by the board of trustees under Subsection (a) if the student scores in the 80th percentile or above on the examination or if the student achieves a score as provided by Subsection (c-1). If a student is given credit in a subject on the basis of an examination, the district shall enter the examination score on the student's transcript and the student is not required to take an end-of-course assessment instrument adopted under Section 39.023(c) for that subject.

(c-1) A school district shall give a student in grade level six or above credit for a subject if the student scores:

(1) a three or higher on an advanced placement examination approved by the board of trustees under Subsection (a) and developed by the College Board; or

(2) a scaled score of 60 or higher on an examination approved by the board of trustees under Subsection (a) and administered through the College-Level Examination Program.

(d) Each district shall administer each examination approved by the board of trustees under Subsection (a) not fewer than four times each year, at times to be determined by the State Board of Education.

(e) Subsection (d) does not apply to an examination that has an administration date that is established by an entity other than the school district.

(f) A student may not attempt more than two times to receive credit for a particular subject on the basis of an examination for credit in that subject.

(g) If a student fails to achieve the designated score described by Subsection (c) or (c-1) on an applicable examination described by Subsection (c) or (c-1) for a subject before the beginning of the school year in which the student would ordinarily be required to enroll in a course in that subject in accordance with the school district's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 1029 (H.B. 2694), § 2, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1203 (S.B. 1365), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1029 (H.B. 2694), § 3 and Acts 2013, 83rd Leg., ch. 1203 (S.B. 1365), § 3 provide: "This Act applies beginning with the 2013-2014 school year."

Sec. 28.024. Credit for Enrollment in Certain Academies.

A school district shall grant to a student credit toward the academic course requirements for high

school graduation, up to a maximum of two years of credit, for courses the student successfully completes at:

(1) the Texas Academy of Leadership in the Humanities under Section 96.707;

(2) the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105;

(3) the Texas Academy of Mathematics and Science under Section 78.10; or

(4) the Texas Academy of International Studies under Section 87.505.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 887 (S.B. 1452), § 3, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1339 (S.B. 151), § 7, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.004, effective September 1, 2007.)

Sec. 28.025. High School Diploma and Certificate; Academic Achievement Record.

(a) The State Board of Education by rule shall determine curriculum requirements for the foundation high school program that are consistent with the required curriculum under Section 28.002. The State Board of Education shall designate the specific courses in the foundation curriculum under Section 28.002(a)(1) required under the foundation high school program. Except as provided by this section, the State Board of Education may not designate a specific course or a specific number of credits in the enrichment curriculum as requirements for the program.

(b) A school district shall ensure that each student, on entering ninth grade, indicates in writing an endorsement under Subsection (c-1) that the student intends to earn. A district shall permit a student to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated. A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

(1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and

(2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the agency, allowing the student to graduate under the foundation high school program without earning an endorsement.

(b-1) The State Board of Education by rule shall require that the curriculum requirements for the foundation high school program under Subsection (a) include a requirement that students successfully complete:

(1) four credits in English language arts under Section 28.002(a)(1)(A), including one credit in English I, one credit in English II, one credit in English III, and one credit in an advanced English course authorized under Subsection (b-2);

(2) three credits in mathematics under Section 28.002(a)(1)(B), including one credit in Algebra I, one credit in geometry, and one credit in any advanced mathematics course authorized under Subsection (b-2);

(3) three credits in science under Section 28.002(a)(1)(C), including one credit in biology, one credit in any advanced science course authorized under Subsection (b-2), and one credit in integrated physics and chemistry or in an additional advanced science course authorized under Subsection (b-2);

(4) three credits in social studies under Section 28.002(a)(1)(D), including one credit in United States history, at least one-half credit in government and at least one-half credit in economics, and one credit in world geography or world history;

(5) except as provided under Subsections (b-12), (b-13), and (b-14), two credits in the same language in a language other than English under Section 28.002(a)(2)(A);

(6) five elective credits;

(7) one credit in fine arts under Section 28.002(a)(2)(D); and

(8) except as provided by Subsection (b-11), one credit in physical education under Section 28.002(a)(2)(C).

(b-2) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 211]** In adopting rules under Subsection (b-1), the State Board of Education shall provide for a student to comply with the curriculum requirements for an advanced English course under Subsection (b-1)(1) taken after successful completion of English I, English II, and English III, for an advanced mathematics course under Subsection (b-1)(2) taken after the successful completion of Algebra I and geometry, and for any advanced science course under Subsection (b-1)(3) by successfully completing a course in the appropriate content area that has been approved as an advanced course by board rule or that is offered as an advanced course for credit without board approval as provided by Section 28.002(g-1).

(b-2) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 214]** In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum

requirements for the third and fourth mathematics credits under Subsection (b-1)(1) or the third and fourth science credits under Subsection (b-1)(1) by successfully completing an advanced career and technical course designated by the State Board of Education as containing substantively similar and rigorous academic content.

(b-3) In adopting rules for purposes of Subsection (b-2), the State Board of Education must approve a variety of advanced English, mathematics, and science courses that may be taken to comply with the foundation high school program requirements, provided that each approved course prepares students to enter the workforce successfully or postsecondary education without remediation.

(b-4) A school district may offer the curriculum described in Subsections (b-1)(1) through (4) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument as provided by Sections 39.023(c) and 39.025.

(b-5) A school district may offer a mathematics or science course to be taken by a student after completion of Algebra II and physics. A course approved under this subsection must be endorsed by an institution of higher education as a course for which the institution would award course credit or as a prerequisite for a course for which the institution would award course credit.

(b-6) **[Repealed September 1, 2014]** Before a student's parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the minimum high school program as provided by Subsection (b), a school district must provide written notice to the parent or person standing in parental relation explaining the benefits of the recommended high school program. The notice shall be developed by the agency and must:

(1) be printed in English and Spanish; and

(2) require that the student's parent or person standing in parental relation to the student sign a confirmation of receipt and return the confirmation to the student's campus.

(b-7) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation high school program or for an endorsement under Subsection (c-1) by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-15) or (c) of this section, Section 39.025, or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

(b-8) **[Repealed September 1, 2014]** A student agreeing to take courses under the minimum high school program as provided by Subsection (b) may, upon request, resume taking courses under the recommended high school program.

(b-9) A school district, with the approval of the commissioner, may allow a student to satisfy the fine arts credit required under Subsection (b-1)(7) by participating in a community-based fine arts program not provided by the school district in which the student is enrolled. The fine arts program must provide instruction in the essential knowledge and skills identified for fine arts by the State Board of Education under Section 28.002(c). The fine arts program may be provided on or off a school campus and outside the regular school day.

(b-10) A school district, with the approval of the commissioner, may allow a student to comply with the curriculum requirements for the physical education credit required under Subsection (b-1)(8) by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day.

(b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section 28.002(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:

(1) if the student receives special education services under Subchapter A, Chapter 29, the

student's admission, review, and dismissal committee;

(2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or

(3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.

(b-12) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with the curriculum requirements for the two credits in a language other than English required under Subsection (b-1)(5) by substituting two credits in computer programming languages.

(b-13) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to substitute credit in another appropriate course for the second credit in the same language in a language other than English otherwise required by Subsection (b-1)(5) if the student, in completing the first credit required under Subsection (b-1)(5), demonstrates that the student is unlikely to be able to complete the second credit. The board rules must establish:

(1) the standards and, as applicable, the appropriate school personnel for making a determination under this subsection; and

(2) appropriate substitute courses for purposes of this subsection.

(b-14) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:

(1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee; or

(2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.

(b-15) A student may earn a distinguished level of achievement under the foundation high school program by successfully completing:

(1) four credits in mathematics, which must include Algebra II and the courses described by Subsection (b-1)(2);

(2) four credits in science, which must include the courses described by Subsection (b-1)(3);

(3) the remaining curriculum requirements under Subsection (b-1); and

(4) the curriculum requirements for at least one endorsement under Subsection (c-1).

(b-16) A student may satisfy an elective credit required under Subsection (b-1)(6) with a credit earned to satisfy the additional curriculum requirements for the distinguished level of achievement under the foundation high school program or an endorsement under Subsection (c-1). This subsection may apply to more than one elective credit.

(b-17) The State Board of Education shall adopt rules to ensure that a student may comply with the curriculum requirements under Subsection (b-1)(6) by successfully completing an advanced career and technical course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

(b-18) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum requirements under Subsection (b-1) by successfully completing a dual credit course.

(b-19) In adopting rules under Subsection (b-1), the State Board of Education shall adopt criteria to allow a student to comply with curriculum requirements for the world geography or world history credit under Subsection (b-1)(4) by successfully completing a combined world history and world geography course developed by the State Board of Education.

(c) A person may receive a diploma if the person is eligible for a diploma under Section 28.0251. In other cases, a student may graduate and receive a diploma only if:

(1) the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) and complies with Section 39.025; or

(2) the student successfully completes an individualized education program developed under Section 29.005.

(c-1) A student may earn an endorsement on the student's diploma and transcript by successfully completing curriculum requirements for that endorsement adopted by the State Board of Education

by rule. The State Board of Education by rule shall provide students with multiple options for earning each endorsement, including, to the greatest extent possible, coherent sequences of courses. The State Board of Education by rule must permit a student to enroll in courses under more than one endorsement curriculum before the student's junior year. An endorsement under this subsection may be earned in any of the following categories:

(1) science, technology, engineering, and mathematics (STEM), which includes courses directly related to science, including environmental science, technology, including computer science, engineering, and advanced mathematics;

(2) business and industry, which includes courses directly related to database management, information technology, communications, accounting, finance, marketing, graphic design, architecture, construction, welding, logistics, automotive technology, agricultural science, and heating, ventilation, and air conditioning;

(3) public services, which includes courses directly related to health sciences and occupations, education and training, law enforcement, and culinary arts and hospitality;

(4) arts and humanities, which includes courses directly related to political science, world languages, cultural studies, English literature, history, and fine arts; and

(5) multidisciplinary studies, which allows a student to:

(A) select courses from the curriculum of each endorsement area described by Subdivisions (1) through (4); and

(B) earn credits in a variety of advanced courses from multiple content areas sufficient to complete the distinguished level of achievement under the foundation high school program.

(c-2) In adopting rules under Subsection (c-1), the State Board of Education shall:

(1) require a student in order to earn any endorsement to successfully complete:

(A) four credits in mathematics, which must include:

(i) the courses described by Subsection (b-1)(2); and

(ii) an additional advanced mathematics course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education;

(B) four credits in science, which must include:

(i) the courses described by Subsection (b-1)(3); and

(ii) an additional advanced science course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education; and

(C) two elective credits in addition to the elective credits required under Subsection (b-1)(6); and

(2) develop additional curriculum requirements for each endorsement with the direct participation of educators and business, labor, and industry representatives, and shall require each school district to report to the agency the categories of endorsements under Subsection (c-1) for which the district offers all courses for curriculum requirements, as determined by board rule.

(c-3) In adopting rules under Subsection (c-1), the State Board of Education shall adopt criteria to allow a student participating in the arts and humanities endorsement under Subsection (c-1)(4), with the written permission of the student's parent or a person standing in parental relation to the student, to comply with the curriculum requirements for science required under Subsection (c-2)(1)(B)(ii) by substituting for an advanced course requirement a course related to that endorsement.

(c-4) Each school district must make available to high school students courses that allow a student to complete the curriculum requirements for at least one endorsement under Subsection (c-1). A school district that offers only one endorsement curriculum must offer the multidisciplinary studies endorsement curriculum.

(c-5) A student may earn a performance acknowledgment on the student's diploma and transcript by satisfying the requirements for that acknowledgment adopted by the State Board of Education by rule. An acknowledgment under this subsection may be earned:

(1) for outstanding performance:

(A) in a dual credit course;

(B) in bilingualism and biliteracy;

(C) on a college advanced placement test or international baccalaureate examination; or

(D) on the PSAT, the ACT-Plan, the SAT, or the ACT; or

(2) for earning a nationally or internationally recognized business or industry certification or license.

(d) A school district may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) but who fails to comply with Section 39.025. A school district may allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas.

(e) Each school district shall report the academic achievement record of students who have completed

the foundation high school program on transcript forms adopted by the State Board of Education. The transcript forms adopted by the board must be designed to clearly identify whether a student received a diploma or a certificate of coursework completion.

(e-1) A school district shall clearly indicate a distinguished level of achievement under the foundation high school program as described by Subsection (b-15), an endorsement described by Subsection (c-1), and a performance acknowledgment described by Subsection (c-5) on the diploma and transcript of a student who satisfies the applicable requirements. The State Board of Education shall adopt rules as necessary to administer this subsection.

(e-2) At the end of each school year, each school district shall report through the Public Education Information Management System (PEIMS) the number of district students who, during that school year, were:

(1) enrolled in the foundation high school program;

(2) pursuing the distinguished level of achievement under the foundation high school program as provided by Subsection (b-15); and

(3) enrolled in a program to earn an endorsement described by Subsection (c-1).

(e-3) Information reported under Subsection (e-2) must be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29.

(f) A school district shall issue a certificate of attendance to a student who receives special education services under Subchapter A, Chapter 29, and who has completed four years of high school but has not completed the student's individualized education program. A school district shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this subsection. This subsection does not preclude a student from receiving a diploma under Subsection (c)(2).

(g) **[Repealed September 1, 2014]** If a student, other than a student permitted to take courses under the minimum high school program as provided by Subsection (b), is unable to complete the recommended or advanced high school program solely because necessary courses were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control, the school district shall indicate that fact on the student's transcript form described by Subsection (e).

(h) **[Expires September 1, 2018]** The commissioner by rule shall adopt a transition plan to implement and administer the amendments made by H.B. No. 5, 83rd Legislature, Regular Session, 2013, replacing the minimum, recommended, and advanced high school programs with the foundation high school program beginning with the 2014-2015 school year. Under the transition plan, a student who entered the ninth grade before the 2014-2015 school year must be permitted to complete the curriculum requirements required for high school graduation under:

(1) the foundation high school program, if the student chooses during the 2014-2015 school year to take courses under this program;

(2) the minimum high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year;

(3) the recommended high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year; or

(4) the advanced high school program, as that program existed before the adoption of H.B. No. 5, 83rd Legislature, Regular Session, 2013, if the student was participating in that program before the 2014-2015 school year.

(h-1) **[Expires September 1, 2018]** This subsection and Subsection (h) expire September 1, 2018.

(h-2) **[Expires September 1, 2015]** This subsection applies only to a student participating in the minimum, recommended, or advanced high school program who is completing the fourth year of high school during the 2013-2014 school year. The commissioner by rule shall permit a student who does not satisfy the curriculum requirements of the high school program in which the student is participating to graduate if the student satisfies the curriculum requirements established for the foundation high school program under this section as amended by H.B. No. 5, 83rd Legislature, Regular Session, 2013, and any other requirement required for graduation. This subsection expires September 1, 2015.

(i) If an 11th or 12th grade student in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student

meets the graduation requirements of the district from which the student transferred.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 8, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 187 (S.B. 387), § 2, effective May 19, 2001; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 365 (S.B. 1366), § 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.003, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 10, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 164 (H.B. 25), § 4, effective May 27, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 5, § 5.02, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 46 (S.B. 673), § 1, effective May 28, 2007; am. Acts 2007, 80th Leg., ch. 763 (H.B. 3485), § 4, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 30, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 714 (H.B. 692), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 926 (S.B. 1620), § 3, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 9, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 16(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(b)(3), effective September 1, 2014; am. Acts 2013, 83rd Leg., ch. 214 (H.B. 2201), § 2, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 4, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 16(b) and (c) provides:

"(b) Except as provided by Subsection (c) of this section, this section applies beginning with the 2014-2015 school year.

(c) Section 28.025(h-2), Education Code, as added by this section, applies during the 2013-2014 school year."

Acts 2013, 83rd Leg., ch. 1354 (S.B. 1404), § 5 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 28.0251. High School Diploma for Certain Veterans.

(a) Notwithstanding any other provision of this code, a school district may issue a high school diploma to a person who:

(1) is an honorably discharged member of the armed forces of the United States;

(2) was scheduled to graduate from high school:

(A) after 1940 and before 1975; or

(B) after 1989; and

(3) left school after completing the sixth or a higher grade, before graduating from high school, to serve in:

(A) World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or

(B) any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973 (50 U.S.C. Section 1541 et seq.).

(b) A school district may issue a diploma to a person otherwise eligible under Subsection (a) notwithstanding the fact that the person holds a high school equivalency certificate or is deceased.

(c) The commissioner by rule shall adopt a form for a diploma application to be used by a veteran or a person acting on behalf of a deceased veteran under this section. The commissioner shall specify acceptable evidence of eligibility for a diploma under this section.

(Enacted by Acts 2001, 77th Leg., ch. 187 (S.B. 387), § 1, effective May 19, 2001; Acts 2005, 79th Leg., ch. 540 (H.B. 1058), § 1, effective June 17, 2005; am. Acts 2011, 82nd Leg., ch. 642 (S.B. 966), § 1, effective June 17, 2011.)

Sec. 28.0252. Computation of High School Grade Point Average.

(a) The commissioner may develop a standard method of computing a student's high school grade point average that provides for additional weight to be given to each honors course, advanced placement course, international baccalaureate course, or dual credit course completed by a student.

(b) If the commissioner develops a standard method under this section, a school district shall use the standard method to compute a student's high school grade point average.

(b-1) [Expired pursuant to Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 31, effective September 1, 2010.]

(c) The commissioner may adopt rules necessary to implement this section.

(Enacted by Acts 2005, 79th Leg., ch. 293 (S.B. 111), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1369 (H.B. 3851), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 31, effective June 19, 2009.)

Sec. 28.0253. Pilot Program: High School Diplomas for Students Who Demonstrate Early Readiness for College.

(a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Research university" means an institution of higher education that is designated as a research university under the Texas Higher Education Coordinating Board's accountability system.

(b) A research university that chooses to participate in the pilot program shall:

(1) not later than September 1 of each year, make available on the university's Internet website detailed standards for use in the program regarding:

(A) the specific competencies that demonstrate a student's mastery of each subject area for which the Texas Higher Education Coordinating Board and the commissioner have adopted college readiness standards;

(B) the specific competencies that demonstrate a student's mastery of a language other than English; and

(C) acceptable assessments or other means by which a student may demonstrate the student's early readiness for college with respect to each subject area and the language described by this subdivision, subject to Subsection (c);

(2) partner with at least 10 school districts that reflect the geographic diversity of this state and the student compositions of which reflect the socioeconomic diversity of this state; and

(3) assist school administrators, school counselors, and other educators in each of those school districts in designing the specific requirements of and implementing the program in the district.

(c) The assessments or other means filed by a research university under Subsection (b)(1)(C) must be equivalent to the assessments or other means the university uses to place students at the university in courses that may be credited toward a degree requirement.

(d) A research university that partners with a school district under this section shall enter into an agreement with the district under which the university and district agree that the district will assess a student's mastery of the subject areas described by Subsection (b)(1) and a language other than English in accordance with the standards the university filed under Subsection (b)(1). The district may issue a high school diploma to a student under the program if, using the standards, the student demonstrates mastery of and early readiness for college in each of those subject areas and in a language other than English, notwithstanding any other local or state requirements.

(e) A student who receives a high school diploma through the pilot program is considered to have earned a distinguished level of achievement under the foundation high school program adopted under Section 28.025. The student is not guaranteed admission to any institution of higher education or to any academic program at an institution of higher education solely on the basis of having received the diploma through the program. The student may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student earns a diploma through the pilot program.

(f) A research university that participates in the pilot program shall enter into an agreement with an education research center established under Section 1.005 to conduct an evaluation of the program with respect to that university and the school districts with which the university partners. Not later than January 1, 2013, the education research center shall provide a written report of the evaluation to the commissioner and the commissioner of higher education and make the report available on the center's Internet website. The report may include an analysis of the effects of the program on the university's admissions review process.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 32, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 17(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 17(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 28.0254. Posthumous High School Diploma for Certain Students.

(a) Notwithstanding any other provision of this code, but subject to Subsection (b), on request of the student's parent, a school district shall issue a high school diploma posthumously to each student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. For purposes of this subsection, "school year" includes any summer session following the spring semester.

(b) A school district is not required to issue a high school diploma to a student described by Subsection (a) if the student at any time before the student's death was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

(Enacted by Acts 2007, 80th Leg., ch. 871 (H.B. 1563), § 1, effective June 15, 2007.)

Sec. 28.0255. [Expires September 1, 2023] Pilot Program: Three-Year High School Diploma Plan.

(a) In this section, "certificate program," "public junior college," "public state college," and "public technical institute" have the meanings assigned by Section 61.003.

(b) This section applies only to a school district:

(1) with an enrollment of more than 150,000 students; and

(2) located primarily in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000.

(c) A school district to which this section applies may develop and implement a pilot program for students who wish to obtain a high school diploma after completion of three years of secondary school attendance as an alternative to the traditional four-year period of attendance. The program must include partnerships between the school district and public junior colleges, public technical institutes, public state colleges, and any other public postsecondary institutions in this state offering academic or technical education or vocational training under a certificate program or an associate degree program to facilitate the prompt enrollment of students in those institutions after high school graduation under the program.

(d) Participation by a student in the program must be voluntary, with approval of the student's parent. A student who agrees to participate in the program may, on request, discontinue participation and resume taking courses under a high school program based on a traditional four-year period of attendance.

(e) Notwithstanding Section 28.025, the school district shall specify the curriculum requirements for receiving a high school diploma under the program. The curriculum requirements must ensure that a student who graduates under the program possesses sufficient knowledge and skills in English language arts and mathematics to be capable of performing successfully in public junior college-level courses.

(f) The school district shall submit to the commissioner for approval the district's proposal regarding the scope of the program and the program curriculum requirements. The school district shall also submit the proposed curriculum requirements to the State Board of Education for comment. The district may not implement the program before obtaining the commissioner's approval of the scope of the program and the program curriculum requirements.

(g) A student is entitled to a high school diploma if the student:

(1) successfully complies with the curriculum requirements specified under Subsection (e); and

(2) performs satisfactorily, as determined by the commissioner under Subsection (h), on end-of-course assessment instruments listed under Section 39.023(c) for courses in which the student was enrolled.

(h) For purposes of Subsection (g)(2), the commissioner shall determine the level of satisfactory performance on applicable end-of-course assessment instruments administered to a student.

(i) The school district shall report the academic achievement record of students who have completed the program on a transcript that clearly identifies the program and distinguishes the program from the other high school programs based on a traditional four-year period of attendance.

(j) A student who has received a diploma under the program is exempt from the compulsory school attendance requirements under Section 25.085.

(k) To the extent this section conflicts with any other provision of this code or rule adopted under this code, this section prevails.

(*l*) This section expires September 1, 2023.

(Enacted by Acts 2013, 83rd Leg., ch. 660 (H.B. 1122), § 1, effective September 1, 2013.)

Sec. 28.026. Notice of Requirements for Automatic College Admission and Financial Aid.

(a) The board of trustees of a school district and the governing body of each open-enrollment charter school that provides a high school shall require each high school in the district or provided by the charter school, as applicable, to post appropriate signs in each school counselor's office, in each principal's office, and in each administrative building indicating the substance of Section 51.803 regarding automatic college admission and stating the curriculum requirements for financial aid authorized under Title 3. To assist in the dissemination of that information, the district or charter school shall:

(1) require that each school counselor and class advisor at a high school be provided a detailed explanation of the substance of Section 51.803 and the curriculum requirements for financial aid authorized under Title 3;

(2) provide each district or school student, at the time the student first registers for one or more classes required for high school graduation, with a written notification, including a detailed explanation in plain language, of the substance of Section 51.803, the curriculum requirements for financial aid authorized under Title 3, and the benefits of completing the requirements for that automatic admission and financial aid;

(3) require that each school counselor and senior class advisor at a high school explain to eligible students the substance of Section 51.803; and

(4) not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system under Section 25.084, provide each senior student eligible under Section 51.803 and each student enrolled in the junior year of high school who has a grade point average in the top 10 percent of the student's high school class, and the student's parent or guardian, with a written notification of the student's eligibility with a detailed explanation in plain language of the substance of Section 51.803.

(b) The commissioner shall adopt forms, including specific language, to use in providing notice under Subsections (a)(2) and (4). In providing notice under Subsection (a)(2) or (4), a school district or open-enrollment charter school shall use the appropriate form adopted by the commissioner. The notice to a student and the student's parent or guardian under Subsections (a)(2) and (4) must be on a single form that contains signature lines to indicate receipt of notice by the student and the student's parent or guardian. The notice under Subsection (a)(2) must be signed by the student's counselor in addition to being signed by the student and the student's parent or guardian.

(Enacted by Acts 1999, 76th Leg., ch. 1511 (S.B. 510), § 1, effective June 19, 1999; am. Acts 2009, 81st Leg., ch. 1342 (S.B. 175), § 3, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 18(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 20, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 18(b) provides: "This section applies beginning with the 2014—2015 school year."

Sec. 28.027. Applied Science, Technology, Engineering, and Mathematics Courses.

(a) In this section, "applied STEM course" means an applied science, technology, engineering, or mathematics course offered as part of a school district's career and technology education or technology applications curriculum.

(b) The State Board of Education shall establish a process under which an applied STEM course may be reviewed and approved for purposes of satisfying the mathematics and science curriculum requirements for the foundation high school program under Section 28.025 through substitution of the applied STEM course for a specific mathematics or science course otherwise required under the foundation high school program. The State Board of Education may only approve a course to substitute for a science course taken after successful completion of biology.

(c) The process must provide that an applied STEM course is entitled to be approved for the purpose described by Subsection (b) if the course meets the following requirements:

(1) the applied STEM course is part of a curriculum created by a recognized national or international business and industry group to prepare a student for a national or international business and industry certification or license;

(2) the applied STEM course qualifies as:

(A) a dual credit course; or

(B) an articulated postsecondary course provided for local credit or articulated postsecondary advanced technical credit course provided for state credit;

(3) the essential knowledge and skills covered in the applied STEM course are equivalent to the essential knowledge and skills covered in the mathematics or science course for which the applied STEM course is proposed to be approved for substitution; and

(4) the applied STEM course:

(A) provides substantial mathematics content or science content, as applicable, taught in an applied or symbolic format, that enables a student to develop relevant critical thinking skills necessary for preparation for employment or additional training in a career identified by the Texas Workforce Commission as a high-demand or emerging occupation; and

(B) incorporates college and career readiness skills.

(d) If an applied STEM course approved under this section is part of a coherent sequence of career and technology courses, a student is eligible to enroll in the applied STEM course for the purpose described in Subsection (b) only if the student has completed the prerequisite course work, if any, for the applied STEM course.

(Enacted by Acts 2011, 82nd Leg., ch. 926 (S.B. 1620), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 19(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 214 (H.B. 2201), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 19(b) provides: "This section applies beginning with the 2014-2015 school year."

SUBCHAPTER C
ADVANCED PLACEMENT INCENTIVES

Sec. 28.051. Definitions.

In this subchapter:

(1) "Board" means the State Board of Education.

(2) "College advanced placement course" means a board-approved high-school-level preparatory course for a college advanced placement test that incorporates all topics specified by the college board on its standard syllabus for a given subject area.

(3) "College advanced placement test" means the advanced placement test administered by the College Board and Educational Testing Service.

(4) "College board" means the College Board and Educational Testing Service.

(5) "International baccalaureate course" means a high-school-level preparatory course for an international baccalaureate examination that incorporates each topic specified by the International Baccalaureate Organization on its standard syllabus for a particular subject area.

(6) "International baccalaureate examination" means the international baccalaureate examination administered by the International Baccalaureate Organization.

(7) "Program" means the Texas Advanced Placement Incentive Program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 28.052. Program; Purpose.

(a) The purpose of the Texas Advanced Placement Incentive Program is to recognize and reward those students, teachers, and schools that demonstrate success in achieving the state's educational goals.

(b) Awards and subsidies granted under the program are for the public purpose of promoting an educated citizenry.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 28.053. Types of Awards.

(a) A school participating in the program may be awarded:

(1) a one-time $3,000 equipment grant for providing a college advanced placement course or international baccalaureate course to be paid to a school based on need as determined by the commissioner; and

(2) $100 for each student who scores a three or better on a college advanced placement test or four or better on an international baccalaureate examination.

(b) Funds awarded under Subsection (a) shall be used in the manner determined by the campus team established, by the principal, under Subsection (c).

(c) The principal of each school participating in the program shall convene, at least annually, a team composed of not more than five members, with not fewer than three teachers, to include at least one teacher participating in the program and at least one teacher who teaches students in preparation for their participation in the program, for the purpose of determining the use of funds awarded under Subsection (a). Nothing in this section limits the authority of the team to direct expenditure of funds awarded under Subsection (a)(2) for awards to individual teachers participating in the program.

(d) A teacher participating in the program may be awarded:

(1) subsidized teacher training, not to exceed $450 for each teacher, for a college advanced placement course or an international baccalaureate course;

(2) a one-time award of $250 for teaching a college advanced placement course or an international baccalaureate course for the first time; and

(3) a share of the teacher bonus pool, which shall be distributed by the teacher's school in shares proportional to the number of courses taught.

(e) To be eligible for an award under Subsection (d), a teacher must teach a college advanced placement course or an international baccalaureate course.

(f) Fifty dollars may be deposited in the teacher bonus pool for each student enrolled in the school that scores a three or better on a college advanced placement test or four or better on an international baccalaureate examination.

(g) A student receiving a score of three or better on a college advanced placement test or four or better on an international baccalaureate examination may receive reimbursement, not to exceed $65, for the testing fee. The reimbursement shall be reduced by the amount of any subsidy awarded by the college board or the International Baccalaureate Organization or under Section 28.054.

(h) The commissioner may enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students. An eligible student is a student who:

(1) takes a college advanced placement or international baccalaureate course at a public school or who is recommended by the student's principal or teacher to take the test; and

(2) demonstrates financial need as determined in accordance with guidelines adopted by the

board that are consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.

(i) The commissioner shall analyze and adjust, as needed, the sum of and number of awards to ensure that the purpose of the program is realized.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 854 (S.B. 578), § 1, effective June 20, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 49.01, effective September 28, 2011.)

Sec. 28.054. Subsidies for College Advanced Placement Test or International Baccalaureate Examination.

(a) A student is entitled to a subsidy for a fee paid by the student to take a college advanced placement test or an international baccalaureate examination if the student demonstrates financial need. The board shall adopt guidelines for determining financial need consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.

(b) To obtain a subsidy under this section, a student must:

(1) pay the fee for each test or examination for which the student seeks a subsidy; and

(2) submit to the board through the student's school counselor a written application on a form prescribed by the commissioner demonstrating financial need and the amount of the fee paid by the student for each test or examination.

(c) On approval by the board, the agency may pay each eligible applicant an equal amount, not to exceed $25 for each applicant.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 21, effective June 14, 2013.)

Sec. 28.055. Use of School Awards; Application.

(a) A school shall give priority to academic enhancement purposes in using an award received under the program. The award may not be used for any purpose related to athletics.

(b) To obtain an award under the program, a school must submit to the board a written application in a form, manner, and time prescribed by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 28.056. Application for Teacher Awards and Reimbursements.

To obtain an award or reimbursement for training expenses under the program, a teacher must submit to the board a written application in a form, manner, and time prescribed by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 28.057. Funding.

(a) An award or subsidy granted under this subchapter may be funded by donations, grants, or legislative appropriations. The commissioner may solicit and receive grants and donations for making awards under this subchapter. The agency shall account for and distribute the donations, grants, or legislative appropriations.

(b) The agency shall apply to the program any available funds from its appropriations that may be used for purposes of the program.

(c) The grant of any award or subsidy under the program is subject to the availability of funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 28.058. Confidentiality.

All information regarding an individual student received by the commissioner under this subchapter from a school district or student is confidential under Chapter 552, Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

CHAPTER 29
EDUCATIONAL PROGRAMS

Subchapter A. Special Education Program

SUBCHAPTER A
SPECIAL EDUCATION PROGRAM

Sec. 29.001. Statewide Plan.

The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities;

(2) facilitate interagency coordination when other state agencies are involved in the delivery of instructional or related services to students with disabilities;

(3) periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of students with disabilities who cannot be appropriately served in their resident districts;

(5) allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Section 42.006, are accurate and complete;

(6) ensure that appropriately trained personnel are involved in the diagnostic and evaluative procedures operating in all districts and that those personnel routinely serve on district admissions, review, and dismissal committees;

(7) ensure that an individualized education program for each student with a disability is properly developed, implemented, and maintained in the least restrictive environment that is appropriate to meet the student's educational needs;

(8) ensure that, when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes, in addition to participating in regular or special classes;

(9) ensure that each student with a disability is provided necessary related services;

(10) ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b), is required to:

(A) complete a training program that complies with minimum standards established by agency rule;

(B) visit the child and the child's school;

(C) consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;

(D) review the child's educational records;

(E) attend meetings of the child's admission, review, and dismissal committee;

(F) exercise independent judgment in pursuing the child's interests; and

(G) exercise the child's due process rights under applicable state and federal law; and

(11) ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

(A) to request a review of the student's individualized education program;

(B) that provides for a timely district response to the teacher's request; and

(C) that provides for notification to the student's parent or legal guardian of that response.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 430 (S.B. 1141), § 1, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1283 (H.B. 1335), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1283 (H.B. 1335), § 2 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 29.002. Definition.

In this subchapter, "special services" means:

(1) special education instruction, which may be provided by professional and supported by paraprofessional personnel in the regular classroom or in an instructional arrangement described by Section 42.151; and

(2) related services, which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the student to benefit from special education instruction and for implementation of a student's individualized education program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 1, effective June 13, 2001.)

Sec. 29.003. Eligibility Criteria.

(a) The agency shall develop specific eligibility criteria based on the general classifications established by this section with reference to contemporary diagnostic or evaluative terminologies and techniques. Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this subchapter. Instruction shall be supplemented by the provision of related services when appropriate.

(b) A student is eligible to participate in a school district's special education program if the student:

(1) is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services; or

(2) is at least three but not more than 21 years of age and has one or more of the following disabilities that prevents the student from being adequately or safely educated in public school without the provision of special services:

(A) physical disability;

(B) mental retardation;
(C) emotional disturbance;
(D) learning disability;
(E) autism;
(F) speech disability; or
(G) traumatic brain injury.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.004. Full Individual and Initial Evaluation.

(a) A written report of a full individual and initial evaluation of a student for purposes of special education services shall be completed as follows, except as otherwise provided by this section:

(1) not later than the 45th school day following the date on which the school district, in accordance with 20 U.S.C. Section 1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian, except that if a student has been absent from school during that period on three or more days, that period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or

(2) for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or home school setting, not later than the 45th school day following the date on which the school district receives written consent for the evaluation, signed by a student's parent or legal guardian.

(a-1) If a school district receives written consent signed by a student's parent or legal guardian for a full individual and initial evaluation of a student at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent or legal guardian not later than June 30 of that year. The student's admission, review, and dismissal committee shall meet not later than the 15th school day of the following school year to consider the evaluation. If a district receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the district receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, Subsection (a)(1) applies to the date the written report of the full individual and initial evaluation is required.

(a-2) For purposes of this section, "school day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. The commissioner by rule may determine days during which year-round schools are recessed that, consistent with this subsection, are not considered to be school days for purposes of this section.

(a-3) Subsection (a) does not impair any rights of an infant or toddler with a disability who is receiving early intervention services in accordance with 20 U.S.C. Section 1431.

(b) The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication.

(c) If a parent or legal guardian makes a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the district shall, not later than the 15th school day after the date the district receives the request:

(1) provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or

(2) refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 U.S.C. Section 1415(b).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 2, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 539 (H.B. 1339), § 3, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 757 (S.B. 816), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 757 (S.B. 816), § 2 provides: "Section 29.004, Education Code, as amended by this Act, applies to completion of a report of a full individual and initial evaluation of a public school student for purposes of special education services only as to an initial evaluation performed on or after September 1, 2013."

Sec. 29.0041. Information and Consent for Certain Psychological Examinations or Tests.

(a) On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. Section 1414 for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, a school district shall provide to the child's parent:

(1) the name and type of the examination or test; and

(2) an explanation of how the examination or test will be used to develop an appropriate individualized education program for the child.

(b) If the district determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent under Subsection (a), the district shall provide the information described by Subsections (a)(1) and (2) to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test.

(c) The time required for the district to provide information and seek consent under Subsection (b) may not be counted toward the 60 calendar days for completion of an evaluation under Section 29.004. If a parent does not give consent under Subsection (b) within 20 calendar days after the date the district provided to the parent the information required by that subsection, the parent's consent is considered denied.

(Enacted by Acts 2003, 78th Leg., ch. 1008 (H.B. 320), § 2, effective June 20, 2003.)

Sec. 29.005. Individualized Education Program.

(a) Before a child is enrolled in a special education program of a school district, the district shall establish a committee composed of the persons required under 20 U.S.C. Section 1401(11) to develop the child's individualized education program.

(b) The committee shall develop the individualized education program by agreement of the committee members or, if those persons cannot agree, by an alternate method provided by the agency. Majority vote may not be used to determine the individualized education program.

(c) If the individualized education program is not developed by agreement, the written statement of the program required under 20 U.S.C. Section 1401(11) must include the basis of the disagreement.

(d) If the child's parent is unable to speak English, the district shall:

(1) provide the parent with a written or audiotaped copy of the child's individualized education program translated into Spanish if Spanish is the parent's native language; or

(2) if the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's individualized education program translated into the parent's native language.

(e) The commissioner by rule may require a school district to include in the individualized education program of a student with autism or another pervasive developmental disorder any information or requirement determined necessary to ensure the student receives a free appropriate public education as required under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(f) The written statement of a student's individualized education program may be required to include only information included in the model form developed under Section 29.0051(a).

(g) The committee may determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student for whom the committee has developed an individualized education program. If the committee makes that determination, the behavior improvement plan or the behavioral intervention plan shall be included as part of the student's individualized education program and provided to each teacher with responsibility for educating the student.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1372 (H.B. 1275), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 3, effective June 13, 2001; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 12, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1250 (S.B. 1788), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 458 (S.B. 914), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 458 (S.B. 914), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 29.0051. Model Form.

(a) The agency shall develop a model form for use in developing an individualized education program under Section 29.005(b). The form must be clear, concise, well organized, and understandable to parents and educators and may include only:

(1) the information included in the model form developed under 20 U.S.C. Section 1417(e)(1);

(2) a state-imposed requirement relevant to an individualized education program not required under federal law; and

(3) the requirements identified under 20 U.S.C. Section 1407(a)(2).

(b) The agency shall post on the agency's Internet website the form developed under Subsection (a).

(c) A school district may use the form developed under Subsection (a) to comply with the requirements for an individualized education program under 20 U.S.C. Section 1414(d).

(Enacted by Acts 2011, 82nd Leg., ch. 1250 (S.B. 1788), § 2, effective June 17, 2011.)

Sec. 29.006. Continuing Advisory Committee.

(a) The governor shall appoint a continuing advisory committee, composed of 17 members, under 20 U.S.C. Section 1412(a)(21). At least one member appointed under this subsection must be a director of special education programs for a school district or for a shared services arrangement of multiple school districts as provided by Section 29.007.

(b) The appointments are not subject to confirmation by the senate.

(c) Members of the committee are appointed for staggered terms of four years with the terms of eight or nine members expiring on February 1 of each odd-numbered year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 4, effective June 13, 2001; am. Acts 2011, 82nd Leg., ch. 44 (H.B. 861), § 1, effective May 12, 2011.)

Sec. 29.007. Shared Services Arrangements.

School districts may enter into a written contract to jointly operate their special education programs. The contract must be approved by the commissioner. Funds to which the cooperating districts are entitled may be allocated to the districts jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement districts' agreement.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.008. Contracts for Services; Residential Placement.

(a) A school district, shared services arrangement unit, or regional education service center may contract with a public or private facility, institution, or agency inside or outside of this state for the provision of services to students with disabilities. Each contract for residential placement must be approved by the commissioner. The commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The commissioner may approve either the whole or a part of a facility or program.

(b) Except as provided by Subsection (c), costs of an approved contract for residential placement may be paid from a combination of federal, state, and local funds. The local share of the total contract cost for each student is that portion of the local tax effort that exceeds the district's local fund assignment under Section 42.252, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that amount remaining after subtracting the local share. If the contract involves a public facility, the state share is that amount remaining after subtracting the local share from the portion of the contract that involves the costs of instructional and related services. For purposes of this subsection, "local tax effort" means the total amount of money generated by taxes imposed for debt service and maintenance and operation less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

(c) When a student, including one for whom the state is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the school district, the portion of the costs that includes appropriate education services, as determined by the school district's admission, review, and dismissal committee, shall be paid from state and federal education funds.

(d) A district that contracts for the provision of education services rather than providing the services itself shall oversee the implementation of the student's individualized education program and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom the district contracts shall periodically report to the district on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the district requires in order to fulfill its obligations under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 3, effective September 1, 1997.)

Sec. 29.009. Public Notice Concerning Preschool Programs for Students with Disabilities.

Each school district shall develop a system to notify the population in the district with children who are at least three years of age but younger than six years of age and who are eligible for enrollment in a special education program of the availability of the program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.010. Compliance.

(a) The agency shall adopt and implement a comprehensive system for monitoring school district compliance with federal and state laws relating to special education. The monitoring system must provide for ongoing analysis of district special education data and of complaints filed with the agency concerning special education services and for inspections of school districts at district facilities. The agency shall use the information obtained through analysis of district data and from the complaints management system to determine the appropriate schedule for and extent of the inspection.

(b) To complete the inspection, the agency must obtain information from parents and teachers of students in special education programs in the district.

(c) The agency shall develop and implement a system of sanctions for school districts whose most recent monitoring visit shows a failure to comply with major requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), federal regulations, state statutes, or agency requirements necessary to carry out federal law or regulations or state law relating to special education.

(d) For districts that remain in noncompliance for more than one year, the first stage of sanctions shall begin with annual or more frequent monitoring visits. Subsequent sanctions may range in severity up to the withholding of funds. If funds are withheld, the agency may use the funds to provide, through alternative arrangements, services to students and staff members in the district from which the funds are withheld.

(e) The agency's complaint management division shall develop a system for expedited investigation and resolution of complaints concerning a district's failure to provide special education or related services to a student eligible to participate in the district's special education program.

(f) This section does not create an obligation for or impose a requirement on a school district or open-enrollment charter school that is not also created or imposed under another state law or a federal law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1417 (H.B. 2172), § 1, effective June 19, 1999.)

Sec. 29.011. Transition Planning.

(a) The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The procedures must specify the manner in which a student's admission, review, and dismissal committee must consider, and if appropriate, address the following issues in the student's individualized education program:

(1) appropriate student involvement in the student's transition to life outside the public school system;

(2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;

(3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;

(4) any postsecondary education options;

(5) a functional vocational evaluation;

(6) employment goals and objectives;

(7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;

(8) independent living goals and objectives; and

(9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

(b) The commissioner shall require each school district or shared services arrangement to designate at least one employee to serve as the district's or shared services arrangement's designee on transition and employment services for students enrolled in special education programs under this subchapter. The commissioner shall develop minimum training guidelines for a district's or shared services arrangement's designee. An individual designated under this subsection must provide information and resources about effective transition planning and services and interagency coordination to ensure that local school staff communicate and collaborate with:

(1) students enrolled in special education programs under this subchapter and the parents of those students; and

(2) as appropriate, local and regional staff of the:

(A) Health and Human Services Commission;

(B) Department of Aging and Disability Services;

(C) Department of Assistive and Rehabilitative Services;

(D) Department of State Health Services; and

(E) Department of Family and Protective Services.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 704 (H.B. 2823), §§ 1, 2, effective June 20,

2003; am. Acts 2013, 83rd Leg., ch. 257 (H.B. 617), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 257 (H.B. 617), § 5 provides: "Except as otherwise provided by this Act, this Act applies beginning with the 2013-2014 school year."

Sec. 29.0111. Beginning of Transition Planning.

Appropriate state transition planning under the procedure adopted under Section 29.011 must begin for a student not later than when the student reaches 14 years of age.

(Enacted by Acts 2011, 82nd Leg., ch. 1250 (S.B. 1788), § 3, effective June 17, 2011.)

Sec. 29.0112. Transition and Employment Guide.

(a) The agency, with assistance from the Health and Human Services Commission, shall develop a transition and employment guide for students enrolled in special education programs and their parents to provide information on statewide services and programs that assist in the transition to life outside the public school system. The agency may contract with a private entity to prepare the guide.

(b) The transition and employment guide must contain information specific to this state regarding:

(1) transition services;

(2) employment and supported employment services;

(3) social security programs;

(4) community and long-term services and support;

(5) postsecondary educational programs and services;

(6) information sharing with health and human services agencies and providers;

(7) guardianship and alternatives to guardianship;

(8) self-advocacy, person-directed planning, and self-determination; and

(9) contact information for all relevant state agencies.

(c) The transition and employment guide must be produced in an electronic format and posted on the agency's website in a manner that permits the guide to be easily identified and accessed.

(d) The agency must update the transition and employment guide posted on the agency's website at least once every two years.

(e) A school district shall:

(1) post the transition and employment guide on the district's website if the district maintains a website; and

(2) provide written information and, if necessary, assistance to a parent regarding how to access the electronic version of the guide at:

(A) the first meeting of the student's admission, review, and dismissal committee at which transition is discussed; or

(B) the first committee meeting that occurs after the date the guide becomes available, if a student has already had an admission, review, and dismissal committee meeting discussing transition.

(Enacted by Acts 2013, 83rd Leg., ch. 257 (H.B. 617), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 257 (S.B. 617), § 5 provides: "Except as otherwise provided by this Act, this Act applies beginning with the 2013-2014 school year."

Sec. 29.012. Residential Facilities.

(a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:

(1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is an open-enrollment charter school; or

(2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.

(b) An agency or political subdivision that funds, licenses, certifies, contracts with, or regulates a residential facility must:

(1) require the facility to comply with Subsection (a) as a condition of the funding, licensing, certification, or contracting; or

(2) if the agency or political subdivision places a person in a residential facility, provide the notice under Subsection (a) for that person.

(c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the open-enrollment charter school in which the facility is located.

(d) The Texas Education Agency, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, the Texas Juvenile Probation Commission, and the Texas Youth Commission by a cooperative effort shall develop and by rule adopt a memorandum of understanding. The memorandum must:

(1) establish the respective responsibilities of school districts and of residential facilities for the provision of a free, appropriate public education, as required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and its subsequent amendments, including each requirement for children with disabilities who reside in those facilities;

(2) coordinate regulatory and planning functions of the parties to the memorandum;

(3) establish criteria for determining when a public school will provide educational services;

(4) provide for appropriate educational space when education services will be provided at the residential facility;

(5) establish measures designed to ensure the safety of students and teachers; and

(6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.

(e) This section does not apply to a residential treatment facility for juveniles established under Section 221.056, Human Resources Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.13, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 5, effective June 13, 2001; am. Acts 2009, 81st Leg., ch. 1187 (H.B. 3689), § 4.002, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 85 (S.B. 653), § 3.003, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1187 (H.B. 3689), § 5.004 provides: "Section 141.059, Human Resources Code, as added by this Act, and Section 29.012, Education Code, as amended by this Act, apply beginning with the 2009-2010 school year."

Sec. 29.013. Noneducational Community-Based Support Services for Certain Students with Disabilities.

(a) The agency shall establish procedures and criteria for the allocation of funds appropriated under this section to school districts for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive an appropriate free public education in the least restrictive environment.

(b) The funds may be used only for eligible students with disabilities who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services.

(c) The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by a district in a private residential facility.

(d) The provision of services under this section does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a free appropriate public education in the least restrictive environment. Specifically, services provided under this section may not be used for a student with disabilities who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.014. School Districts That Provide Education Solely to Students Confined to or Educated in Hospitals.

(a) This section applies only to a school district that provides education and related services only to students who are confined in or receive educational services in a hospital.

(b) A school district to which this section applies may operate an extended year program for a period not to exceed 45 days. The district's average daily attendance shall be computed for the regular school year plus the extended year.

(c) Notwithstanding any other provision of this code, a student whose appropriate education program is a regular education program may receive services and be counted for attendance purposes for the number of hours per week appropriate for the student's condition if the student:

(1) is temporarily classified as eligible for participation in a special education program because of the student's confinement in a hospital; and

(2) the student's education is provided by a district to which this section applies.

(d) The basic allotment for a student enrolled in a district to which this section applies is adjusted by:

(1) the cost of education adjustment under Section 42.102 for the school district in which the district is geographically located; and

(2) the weight for a homebound student under Section 42.151(a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.015. Foster Parents.

(a) The school district shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent for the child.

(b) A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. Section 1415(b) and its subsequent amendments, if:

(1) the Department of Protective and Regulatory Services is appointed as the temporary or permanent managing conservator of the child;

(2) the child has been placed with the foster parent for at least 60 days;

(3) the foster parent agrees to:

(A) participate in making educational decisions on the child's behalf; and

(B) complete a training program for surrogate parents that complies with minimum standards established by agency rule; and

(4) the foster parent has no interest that conflicts with the child's interests.

(c) A foster parent who is denied the right to act as a surrogate parent or a parent under this section by a school district may file a complaint with the agency in accordance with federal law and regulations.

(Enacted by Acts 1999, 76th Leg., ch. 430 (S.B. 1141), § 2, effective September 1, 1999.)

Sec. 29.016. Evaluation Conducted Pursuant to a Special Education Due Process Hearing.

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. Section 1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any state or federal law providing for consent by order of a court.

(Enacted by Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 8, effective June 13, 2001.)

Sec. 29.0161. Contract with State Office of Administrative Hearings for Special Education Due Process Hearings.

Not later than December 1, 2003, the agency and the State Office of Administrative Hearings shall jointly determine whether it would be cost-effective for the agency to enter an interagency contract with the office under which the office would conduct all or part of the agency's special education due process hearings under 20 U.S.C. Section 1415 and its subsequent amendments.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 18, effective September 1, 2003.)

Sec. 29.0162. Representation in Special Education Due Process Hearing.

(a) A person in an impartial due process hearing brought under 20 U.S.C. Section 1415 may be represented by:

(1) an attorney who is licensed in this state; or

(2) an individual who is not an attorney licensed in this state but who has special knowledge or training with respect to problems of children with disabilities and who satisfies qualifications under Subsection (b).

(b) The commissioner by rule shall adopt additional qualifications required of a representative for purposes of Subsection (a)(2). The rules must:

(1) prohibit an individual from being a representative under Subsection (a)(2) opposing a school district if:

(A) the individual has prior employment experience with the district; and

(B) the district raises an objection to the individual serving as a representative; and

(2) include requirements that the representative have knowledge of:

(A) special education due process rules, hearings, and procedure; and

(B) federal and state special education laws.

(c) A special education due process hearing officer shall determine whether an individual satisfies qualifications under Subsections (a)(2) and (b).

(d) The agency is not required to license or in any way other than as provided by Subsection (b) regulate representatives described by Subsection (a)(2) in a special education impartial due process hearing.

(Enacted by Acts 2013, 83rd Leg., ch. 1333 (S.B. 709), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1333 (S.B. 709), § 2 provides: "Section 29.0162, Education Code, as added by this Act, applies only to representation at an impartial due process hearing brought under 20 U.S.C. Section 1415 that begins on or after the effective date of the Act [June 14, 2013]."

Sec. 29.017. Transfer of Parental Rights at Age of Majority.

(a) A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability, except that the school district shall provide any notice required by this subchapter or 20 U.S.C. Section 1415 to both the student and the parents. All other rights accorded to parents under this subchapter or 20 U.S.C. Section 1415 transfer to the student.

(b) All rights accorded to parents under this subchapter or 20 U.S.C. Section 1415 transfer to students who are incarcerated in an adult or juvenile, state or local correctional institution.

(c) In accordance with 34 C.F.R. Section 300.517, the school district shall notify the student and the parents of the transfer of rights under this section.

(d) The commissioner shall adopt rules implementing the provisions of 34 C.F.R. Section 300.517(b).

(Enacted by Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 8, effective June 13, 2001.)

Sec. 29.018. Special Education Grant.

(a) From funds appropriated for the purposes of this section, federal funds, or any other funds available, the commissioner shall make grants available to school districts to assist districts in covering the cost of educating students with disabilities.

(b) A school district is eligible to apply for a grant under this section if:

(1) the district does not receive sufficient funds, including state funds provided under Section 42.151 and federal funds, for a student with disabilities to pay for the special education services provided to the student; or

(2) the district does not receive sufficient funds, including state funds provided under Section 42.151 and federal funds, for all students with disabilities in the district to pay for the special education services provided to the students.

(c) A school district that applies for a grant under this section must provide the commissioner with a report comparing the state and federal funds received by the district for students with disabilities and the expenses incurred by the district in providing special education services to students with disabilities.

(d) Expenses that may be included by a school district in applying for a grant under this section include the cost of training personnel to provide special education services to a student with disabilities.

(e) A school district that receives a grant under this section must educate students with disabilities in the least restrictive environment that is appropriate to meet the student's educational needs.

(f) The commissioner shall adopt rules as necessary to administer this section.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 16, effective September 1, 2009.)

Sec. 29.019. Individualized Education Program Facilitation.

(a) The agency shall provide information to parents regarding individualized education program facilitation as an alternative dispute resolution method that may be used to avoid a potential dispute between a school district and a parent of a student with a disability. A district that chooses to use individualized education program facilitation shall provide information to parents regarding individualized education program facilitation. The information:

(1) must be included with other information provided to the parent of a student with a disability, although it may be provided as a separate document; and

(2) may be provided in a written or electronic format.

(b) Information provided by the agency under this section must indicate that individualized education program facilitation is an alternative dispute resolution method that some districts may choose to provide.

(c) If a school district chooses to offer individualized education program facilitation as an alternative dispute resolution method:

(1) the district may determine whether to use independent contractors, district employees, or other qualified individuals as facilitators;

(2) the information provided by the district under this section must include a description of any applicable procedures for requesting the facilitation; and

(3) the facilitation must be provided at no cost to a parent.

(d) The use of any alternative dispute resolution method, including individualized education program facilitation, must be voluntary on the part of the participants, and the use or availability of any such method may not in any manner be used to deny or delay the right to pursue a special education complaint, mediation, or due process hearing in accordance with federal law.

(e) Nothing in this section prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual admission, review, and dismissal committee meetings.

(f) The commissioner shall adopt rules necessary to implement this section.

(Enacted by Acts 2013, 83rd Leg., ch. 539 (S.B. 542), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 539 (S.B. 542), § 2 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 29.020. Individualized Education Program Facilitation Project.

(a) The agency shall develop rules in accordance with this section applicable to the administration of a state individualized education program facilitation project. The program shall include the provision of an independent individualized education program facilitator to facilitate an admission, review, and dismissal committee meeting with parties who are

in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Facilitation implemented under the project must comply with rules developed under this subsection.

(b) The rules must include:

(1) a definition of independent individualized education program facilitation;

(2) forms and procedures for requesting, conducting, and evaluating independent individualized education program facilitation;

(3) training, knowledge, experience, and performance requirements for independent facilitators; and

(4) conditions required to be met in order for the agency to provide individualized education program facilitation at no cost to the parties.

(c) If the commissioner determines that adequate funding is available, the commissioner may authorize the use of federal funds to implement the individualized education program facilitation project in accordance with this section.

(d) The commissioner shall adopt rules necessary to implement this section.

(Enacted by Acts 2013, 83rd Leg., ch. 539 (S.B. 542), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 539 (S.B. 542), § 2 provides: "This Act applies beginning with the 2014-2015 school year."

SUBCHAPTER B
BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

Sec. 29.051. State Policy.

English is the basic language of this state. Public schools are responsible for providing a full opportunity for all students to become competent in speaking, reading, writing, and comprehending the English language. Large numbers of students in the state come from environments in which the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of those students. The mastery of basic English language skills is a prerequisite for effective participation in the state's educational program. Bilingual education and special language programs can meet the needs of those students and facilitate their integration into the regular school curriculum. Therefore, in accordance with the policy of the state to ensure equal educational opportunity to every student, and in recognition of the educational needs of students of limited English proficiency, this subchapter provides for the establishment of bilingual education and special language programs in the public schools and provides supplemental financial assistance to help school districts meet the extra costs of the programs.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.052. Definitions.

In this subchapter:

(1) "Student of limited English proficiency" means a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork in English.

(2) "Parent" includes a legal guardian of a student.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.053. Establishment of Bilingual Education and Special Language Programs.

(a) The agency shall establish a procedure for identifying school districts that are required to offer bilingual education and special language programs in accordance with this subchapter.

(b) Within the first four weeks following the first day of school, the language proficiency assessment committee established under Section 29.063 shall determine and report to the board of trustees of the district the number of students of limited English proficiency on each campus and shall classify each student according to the language in which the student possesses primary proficiency. The board shall report that information to the agency before November 1 each year.

(c) Each district with an enrollment of 20 or more students of limited English proficiency in any language classification in the same grade level shall offer a bilingual education or special language program.

(d) Each district that is required to offer bilingual education and special language programs under this section shall offer the following for students of limited English proficiency:

(1) bilingual education in kindergarten through the elementary grades;

(2) bilingual education, instruction in English as a second language, or other transitional language instruction approved by the agency in post-elementary grades through grade 8; and

(3) instruction in English as a second language in grades 9 through 12.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.054. Exception.

(a) If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by the agency.

(b) An application for an exception may be filed with the agency when a district is unable to hire a sufficient number of teachers with teaching certificates appropriate for bilingual education instruction to staff the required program. The application must be accompanied by:

(1) documentation showing that the district has taken all reasonable affirmative steps to secure teachers with teaching certificates appropriate for bilingual education instruction and has failed;

(2) documentation showing that the district has affirmative hiring policies and procedures consistent with the need to serve limited English proficiency students;

(3) documentation showing that, on the basis of district records, no teacher having a teaching certificate appropriate for bilingual instruction or emergency credentials has been unjustifiably denied employment by the district within the past 12 months; and

(4) a plan detailing specific measures to be used by the district to eliminate the conditions that created the need for an exception.

(c) An exception shall be granted under this section on an individual district basis and is valid for only one year. Application for an exception for a second or succeeding year must be accompanied by the documentation prescribed by Subsection (b).

(d) During the period for which a district is granted an exception under this section, the district must use alternative methods approved by the agency to meet the needs of its students of limited English proficiency, including hiring teaching personnel under a bilingual emergency permit.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.055. Program Content; Method of Instruction.

(a) A bilingual education program established by a school district shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills. A program of instruction in English as a second language established by a school district shall be a program of intensive instruction in English from teachers trained in recognizing and dealing with language differences.

(b) A program of bilingual education or of instruction in English as a second language shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

(c) In subjects such as art, music, and physical education, students of limited English proficiency shall participate fully with English-speaking students in regular classes provided in the subjects.

(d) Elective courses included in the curriculum may be taught in a language other than English.

(e) Each school district shall provide students enrolled in the program a meaningful opportunity to participate fully with other students in all extracurricular activities.

(f) If money is appropriated for the purpose, the agency shall establish a limited number of pilot programs for the purpose of examining alternative methods of instruction in bilingual education and special language programs.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.056. Enrollment of Students in Program.

(a) The agency shall establish standardized criteria for the identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. The student's parent must approve a student's entry into the program, exit from the program, or placement in the program. The school district or parent may appeal the decision under Section 29.064. The criteria for identification, assessment, and classification may include:

(1) results of a home language survey conducted within four weeks of each student's enrollment to determine the language normally used in the home and the language normally used by the student, conducted in English and the home language, signed by the student's parents if the student is in kindergarten through grade 8 or by the student if the student is in grades 9 through 12, and kept in the student's permanent folder by the language proficiency assessment committee;

(2) the results of an agency-approved English language proficiency test administered to all students identified through the home survey as normally speaking a language other than English to determine the level of English language proficiency, with students in kindergarten or grade 1 being administered an oral English proficiency test and students in grades 2 through 12 being administered an oral and written English proficiency test; and

(3) the results of an agency-approved proficiency test in the primary language administered to all students identified under Subdivision (2) as being of limited English proficiency to determine the level of primary language proficiency, with students in kindergarten or grade 1 being administered an oral primary language proficiency test and students in grades 2 through 12 being administered an oral and written primary language proficiency test.

(b) Tests under Subsection (a) shall be administered by professionals or paraprofessionals with the appropriate English and primary language skills and the training required by the test publisher.

(c) The language proficiency assessment committee may classify a student as limited English proficiency if:

(1) the student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;

(2) the student's score or relative degree of achievement on the agency-approved English proficiency test is below the levels established by the agency as indicative of reasonable proficiency;

(3) the student's primary language proficiency score as measured by an agency-approved test is greater than the student's proficiency in English; or

(4) the language proficiency assessment committee determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

(d) Not later than the 10th day after the date of the student's classification as a student of limited English proficiency, the language proficiency assessment committee shall give written notice of the classification to the student's parent. The notice must be in English and the parent's primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program.

(e) The language proficiency assessment committee may retain, for documentation purposes, all records obtained under this section.

(f) The district may not refuse to provide instruction in a language other than English to a student solely because the student has a disability.

(g) A district may transfer a student of limited English proficiency out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

(1) agency-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;

(2) satisfactory performance on the reading assessment instrument under Section 39.023(a) or an English language arts assessment instrument under Section 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the agency; and

(3) agency-approved criterion-referenced tests and the results of a subjective teacher evaluation.

(h) If later evidence suggests that a student who has been transferred out of a bilingual education or special language program has inadequate English proficiency and achievement, the language proficiency assessment committee may reenroll the student in the program. Classification of students for reenrollment must be based on the criteria required by this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.06, effective May 31, 2006.)

Sec. 29.0561. Evaluation of Transferred Students; Reenrollment.

(a) The language proficiency assessment committee shall reevaluate a student who is transferred out of a bilingual education or special language program under Section 29.056(g) if the student earns a failing grade in a subject in the foundation curriculum under Section 28.002(a)(1) during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

(b) During the first two school years after a student is transferred out of a bilingual education or special language program under Section 29.056(g), the language proficiency assessment committee shall review the student's performance and consider:

(1) the total amount of time the student was enrolled in a bilingual education or special language program;

(2) the student's grades each grading period in each subject in the foundation curriculum under Section 28.002(a)(1);

(3) the student's performance on each assessment instrument administered under Section 39.023(a) or (c);

(4) the number of credits the student has earned toward high school graduation, if applicable; and

(5) any disciplinary actions taken against the student under Subchapter A, Chapter 37.

(c) After an evaluation under this section, the language proficiency assessment committee may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.07, effective May 31, 2006.)

Sec. 29.057. Facilities; Classes.

(a) Bilingual education and special language programs must be located in the regular public schools of the district rather than in separate facilities.

(b) Students enrolled in bilingual education or a special language program shall be placed in classes with other students of approximately the same age and level of educational attainment. The school district shall ensure that the instruction given each student is appropriate to the student's level of educational attainment, and the district shall keep adequate records of the educational level and progress of each student enrolled in the program.

(c) The maximum student-teacher ratio shall be set by the agency and shall reflect the special educational needs of students enrolled in the programs.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.058. Enrollment of Students Who Do Not Have Limited English Proficiency.

With the approval of the school district and a student's parents, a student who does not have limited English proficiency may also participate in a bilingual education program. The number of participating students who do not have limited English proficiency may not exceed 40 percent of the number of students enrolled in the program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.059. Cooperation Among Districts.

(a) A school district may join with one or more other districts to provide the bilingual education and special language programs required by this subchapter. The availability of the programs shall be publicized throughout the districts involved.

(b) A school district may allow a nonresident student of limited English proficiency to enroll in or attend its bilingual education or special language programs if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district in which the student resides.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.060. Preschool, Summer School, and Extended Time Programs.

(a) Each school district that is required to offer a bilingual education or special language program shall offer a voluntary program for children of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the next school year. A school that operates on a system permitted by this code other than a semester system shall offer 120 hours of instruction on a schedule the board of trustees of the district establishes. A school that operates on a semester system shall offer the program:

(1) during the period school is recessed for the summer; and

(2) for one-half day for eight weeks or on a similar schedule approved by the board of trustees.

(b) Enrollment of a child in the program is optional with the parent of the child.

(c) The program must be an intensive bilingual education or special language program that meets standards established by the agency. The student/teacher ratio for the program may not exceed 18/1.

(d) A school district may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual education or special language programs for students of limited English proficiency and may join with other districts in establishing the programs.

(e) The programs required or authorized by this section may not be a substitute for programs required to be provided during the regular school year.

(f) The legislature may appropriate money from the foundation school fund for support of a program under Subsection (a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.061. Bilingual Education and Special Language Program Teachers.

(a) The State Board for Educator Certification shall provide for the issuance of teaching certificates appropriate for bilingual education instruction to teachers who possess a speaking, reading, and writ-

ing ability in a language other than English in which bilingual education programs are offered and who meet the general requirements of Chapter 21. The board shall also provide for the issuance of teaching certificates appropriate for teaching English as a second language. The board may issue emergency endorsements in bilingual education and in teaching English as a second language.

(b) A teacher assigned to a bilingual education program must be appropriately certified for bilingual education by the board.

(c) A teacher assigned to an English as a second language or other special language program must be appropriately certified for English as a second language by the board.

(d) A school district may compensate a bilingual education or special language teacher for participating in a continuing education program that is in addition to the teacher's regular contract. The continuing education program must be designed to provide advanced bilingual education or special language program endorsement or skills.

(e) The State Board for Educator Certification and the Texas Higher Education Coordinating Board shall develop a comprehensive plan for meeting the teacher supply needs created by the programs outlined in this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.062. Compliance.

(a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, in accordance with the policy of the state, the agency shall evaluate the effectiveness of programs under this subchapter based on the student achievement indicators adopted under Section 39.053, including the results of assessment instruments. The agency may combine evaluations under this section with federal accountability measures concerning students of limited English proficiency.

(b) The areas to be monitored shall include:

(1) program content and design;

(2) program coverage;

(3) identification procedures;

(4) classification procedures;

(5) staffing;

(6) learning materials;

(7) testing materials;

(8) reclassification of students for either entry into regular classes conducted exclusively in English or reentry into a bilingual education or special education program; and

(9) activities of the language proficiency assessment committees.

(c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district or open-enrollment charter school and to the division of accreditation.

(d) The agency shall notify a school district or open-enrollment charter school found in noncompliance in writing, not later than the 30th day after the date of the on-site monitoring. The district or open-enrollment charter school shall take immediate corrective action.

(e) If a school district or open-enrollment charter school fails to satisfy appropriate standards adopted by the commissioner for purposes of Subsection (a), the agency shall apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 19, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 33, effective June 19, 2009.)

Sec. 29.063. Language Proficiency Assessment Committees.

(a) Each school district that is required to offer bilingual education and special language programs shall establish a language proficiency assessment committee.

(b) Each committee shall include a professional bilingual educator, a professional transitional language educator, a parent of a limited English proficiency student, and a campus administrator.

(c) The language proficiency assessment committee shall:

(1) review all pertinent information on limited English proficiency students, including the home language survey, the language proficiency tests in English and the primary language, each student's achievement in content areas, and each student's emotional and social attainment;

(2) make recommendations concerning the most appropriate placement for the educational advancement of the limited English proficiency student after the elementary grades;

(3) review each limited English proficiency student's progress at the end of the school year in order to determine future appropriate placement;

(4) monitor the progress of students formerly classified as limited English proficiency who have transferred out of the bilingual education or special language program and, based on the information, designate the most appropriate placement for such students; and

(5) determine the appropriateness of a program that extends beyond the regular school year based

on the needs of each limited English proficiency student.

(d) The agency may prescribe additional duties for language proficiency assessment committees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.064. Appeals.

A parent of a student enrolled in a school district offering bilingual education or special language programs may appeal to the commissioner if the district fails to comply with the requirements established by law or by the agency as authorized by this subchapter. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the board of trustees. Appeals shall be conducted in accordance with procedures adopted by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.066. PEIMS Reporting Requirements.

(a) A school district that is required to offer bilingual education or special language programs shall include the following information in the district's Public Education Information Management System (PEIMS) report:

(1) demographic information, as determined by the commissioner, on students enrolled in district bilingual education or special language programs;

(2) the number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and

(3) the number and percentage of students identified as students of limited English proficiency who do not receive specialized instruction.

(b) For purposes of this section, the commissioner shall adopt rules to classify programs under this section as follows:

(1) if the program is a bilingual education program, the program must be classified under the Public Education Information Management System (PEIMS) report as:

(A) transitional bilingual/early exit: a bilingual program that serves students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction not earlier than two or later than five years after the student enrolls in school;

(B) transitional bilingual/late exit: a bilingual program that serves students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction not earlier than six or later than seven years after the student enrolls in school;

(C) dual language immersion/two-way: a biliteracy program that integrates students proficient in English and students identified as students of limited English proficiency in both English and Spanish and transfers a student identified as a student of limited English proficiency to English-only instruction not earlier than six or later than seven years after the student enrolls in school; or

(D) dual language immersion/one-way: a biliteracy program that serves only students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction not earlier than six or later than seven years after the student enrolls in school; and

(2) if the program is a special language program, the program must be classified under the Public Education Information Management System (PEIMS) report as:

(A) English as a second language/content-based: an English program that serves students identified as students of limited English proficiency in English only by providing a full-time teacher certified under Section 29.061(c) to provide supplementary instruction for all content area instruction; or

(B) English as a second language/pull-out: an English program that serves students identified as students of limited English proficiency in English only by providing a part-time teacher certified under Section 29.061(c) to provide English language arts instruction exclusively, while the student remains in a mainstream instructional arrangement in the remaining content areas.

(c) If the school district has received a waiver and is not required to offer a bilingual education or special language program in a student's native language or if the student's parents have refused to approve the student's entry into a program as provided by Section 29.056, the program must be classified under the Public Education Information Management System (PEIMS) report as: no bilingual education or special language services provided.

(Enacted by Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 2, effective June 15, 2007.)

SUBCHAPTER C
COMPENSATORY EDUCATION PROGRAMS

Sec. 29.081. Compensatory, Intensive, and Accelerated Instruction.

(a) Each school district shall use the student performance data resulting from the basic skills assessment instruments and achievement tests administered under Subchapter B, Chapter 39, to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to be performing at grade level at the conclusion of the next regular school term.

(b) Each district shall provide accelerated instruction to a student enrolled in the district who has taken an end-of-course assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument or who is at risk of dropping out of school.

(b-1) Each school district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

(b-2) A district that is required to provide accelerated instruction under Subsection (b-1) shall separately budget sufficient funds, including funds under Section 42.152, for that purpose. A district may not budget funds received under Section 42.152 for any other purpose until the district adopts a budget to support additional accelerated instruction under Subsection (b-1).

(b-3) A district shall evaluate the effectiveness of accelerated instruction programs under Subsection (b-1) and annually hold a public hearing to consider the results.

(c) Each school district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students.

(d) For purposes of this section, "student at risk of dropping out of school" includes each student who is under 26 years of age and who:

(1) was not advanced from one grade level to the next for one or more school years;

(2) if the student is in grade 7, 8, 9, 10, 11, or 12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;

(3) did not perform satisfactorily on an assessment instrument administered to the student under Subchapter B, Chapter 39, and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

(4) if the student is in prekindergarten, kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;

(5) is pregnant or is a parent;

(6) has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;

(7) has been expelled in accordance with Section 37.007 during the preceding or current school year;

(8) is currently on parole, probation, deferred prosecution, or other conditional release;

(9) was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

(10) is a student of limited English proficiency, as defined by Section 29.052;

(11) is in the custody or care of the Department of Protective and Regulatory Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

(12) is homeless, as defined by 42 U.S.C. Section 11302, and its subsequent amendments; or

(13) resided in the preceding school year or resides in the current school year in a residential placement facility in the district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

(d-1) Notwithstanding Subsection (d)(1), a student is not considered a student at risk of dropping out of school if the student did not advance from prekindergarten or kindergarten to the next grade level only as the result of the request of the student's parent.

(e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for

students at risk of dropping out of school. The programs must:

(1) provide not less than four hours of instructional time per day;

(2) employ as faculty and administrators persons with baccalaureate or advanced degrees;

(3) provide at least one instructor for each 28 students;

(4) perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and

(5) comply with this title and rules adopted under this title except as otherwise provided by this subsection.

(f) The commissioner shall include students in attendance in a program under Subsection (e) in the computation of the district's average daily attendance for funding purposes.

(g) In addition to students described by Subsection (d), a student who satisfies local eligibility criteria adopted by the board of trustees of a school district may receive instructional services under this section. The number of students receiving services under this subsection during a school year may not exceed 10 percent of the number of students described by Subsection (d) who received services from the district during the preceding school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1588 (S.B. 1784), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), §§ 1, 2, effective June 13, 2001; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 4, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 690 (H.B. 2703), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 20, effective June 10, 2013.)

Sec. 29.082. Optional Extended Year Program.

(a) A school district may set aside an amount from the district's allotment under Section 42.152 or may apply to the agency for funding of an extended year program for a period not to exceed 30 instructional days for students in:

(1) kindergarten through grade 11 who are identified as likely not to be promoted to the next grade level for the succeeding school year; or

(2) grade 12 who are identified as likely not to graduate from high school before the beginning of the succeeding school year.

(b) The commissioner may adopt rules for the administration of programs provided under this section.

(c) A school district may not enroll more than 16 students in a class provided under this section.

(d) Each class provided under this section shall be taught by a teacher who has completed successfully a program that provides training to teach a class under this section and that satisfies standards the commissioner establishes.

(e) A student who attends at least 90 percent of the program days of a program under this section and who satisfies the requirements for promotion prescribed by Section 28.021 shall be promoted to the next grade level at the beginning of the next school year unless a parent of the student presents a written request to the school principal that the student not be promoted to the next grade level. As soon as practicable after receiving the request from a parent, the principal shall hold a formal meeting with the student's parent, extended year program teacher, and school counselor. During the meeting, the principal, teacher, or school counselor shall explain the longitudinal statistics on the academic performance of students who are not promoted to the next grade level and provide information on the effect of retention on a student's self-esteem and on the likelihood of a student dropping out of school. After the meeting, the parent may withdraw the request that the student not be promoted to the next grade level. If the parent of a student eligible for promotion under this subsection withdraws the request, the student shall be promoted. If a student is promoted under this subsection, the school district shall continue to use innovative practices to ensure that the student is successful in school in succeeding years.

(f) A school district that provides a program under this section shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

(g) A school district shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services.

(h) The commissioner shall give priority to applications for extended year programs to districts with high concentrations of educationally disadvantaged students.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 738 (H.B. 836), § 1, effective June 17, 1997 ; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 8, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 17, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 22, effective June 14, 2013.)

Sec. 29.0821. Optional Flexible Year Program.

(a) A school district may provide a flexible year program for students who did not or are likely not to perform successfully on an assessment instrument administered under Section 39.023 or who would not otherwise be promoted to the next grade level.

(b) To enable a school district to provide additional instructional days for a program under this section, with the approval of the commissioner, a school district may:

(1) provide a number of days of instruction during the regular school year that is not more than 10 days fewer than the number required under Section 25.081(a); and

(2) use for instructional purposes not more than five days that would otherwise be used for staff development or teacher preparation.

(c) Notwithstanding any reduction in the number of instructional days in the regular school year or in the number of staff development days, each educator employed under a 10-month contract must provide the minimum days of service required under Section 21.401.

(d) A school district may require educational support personnel to provide service as necessary for an optional flexible year program.

(e) The commissioner may adopt rules for the administration of programs provided under this section.

(Enacted by Acts 2003, 78th Leg., ch. 824 (S.B. 346), § 1, effective June 20, 2003.)

Sec. 29.0822. Optional Flexible School Day Program.

(a) Notwithstanding Section 25.081 or 25.082, a school district may apply to the commissioner to provide a flexible school day program for students who:

(1) have dropped out of school or are at risk of dropping out of school as defined by Section 29.081;

(2) attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or

(3) as a result of attendance requirements under Section 25.092, will be denied credit for one or more classes in which the students have been enrolled.

(b) To enable a school district to provide a program under this section that meets the needs of students described by Subsection (a), a school district that meets application requirements may:

(1) provide flexibility in the number of hours each day a student attends;

(2) provide flexibility in the number of days each week a student attends; or

(3) allow a student to enroll in less than or more than a full course load.

(c) Except in the case of a course designed for a student described by Subsection (a)(3), a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Section 25.081 and the required length of school day under Section 25.082.

(d) The commissioner may adopt rules for the administration of this section, including rules establishing application requirements. The commissioner shall calculate average daily attendance for students served under this section. The commissioner shall allow accumulations of hours of instruction for students whose schedule would not otherwise allow full state funding. Funding under this subsection shall be determined based on the number of instructional days in the school district calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required under this subsection shall be proportionately reduced for funding purposes. The commissioner may:

(1) set maximum funding amounts for an individual course under this section; and

(2) limit funding for the attendance of a student described by Subsection (a)(3) in a course under this section to funding only for the attendance necessary for the student to earn class credit that, as a result of attendance requirements under Section 25.092, the student would not otherwise be able to receive without retaking the class.

(e) A student described by Subsection (a)(3) may enroll in a course in a program under this section offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that, as a result of attendance requirements under Section 25.092, the student would not otherwise be able to receive without retaking the class.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 364 (H.B. 1297), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 18, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 364 (H.B. 1297), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Sec. 29.083. Student Retention Information.

The agency shall collect data from school districts through the Public Education Information Management System (PEIMS) relating to grade level retention of students.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.084. Tutorial Services.

(a) Each school district may provide tutorial services at the district's schools.

(b) A district that provides tutorial services shall require a student whose grade in a subject for a grade reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials.

(c) A district may provide transportation for a student who is required to attend tutorial services and who is eligible for regular transportation services.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.085. Life Skills Program for Student Parents.

(a) A school district may provide an integrated program of educational and support services for students who are pregnant or who are parents.

(b) The program shall include:

(1) individual counseling, peer counseling, and self-help programs;

(2) career counseling and job readiness training;

(3) day care for the students' children on the campus or at a day-care facility in close proximity to the campus;

(4) transportation for children of students to and from the campus or day-care facility;

(5) transportation for students, as appropriate, to and from the campus or day-care facility;

(6) instruction related to knowledge and skills in child development, parenting, and home and family living; and

(7) assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

(c) The district shall solicit recommendations for obtaining community support for the students and their children from organizations for parents of students in the district and from other community organizations.

(d) School districts may operate shared services arrangement programs under this section.

(e) From funds appropriated for the purpose, the commissioner shall distribute funds for programs under this section. In distributing those funds, the commissioner shall give preference to school districts that received funds for a program under this section for the preceding school year and then to the districts that have the highest concentration of students who are pregnant or who are parents. To receive funds for a program under this section, a school district must apply to the commissioner. A program established under this section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 19, effective September 1, 2009.)

Sec. 29.086. Basic Skills Programs for High School Students.

(a) A school district may apply to the commissioner for funding of special programs for students in grade nine who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner. A school district may, with the consent of a student's parent or guardian, assign a student to a program under this section. A program under this section may not exceed 210 instructional days.

(b) A program under this section must emphasize basic skills in areas of the required curriculum under Section 28.002 and must offer students the opportunity to increase credits required for high school graduation under state or school district policy. A program under this section may be provided by a school district or an entity contracting with a school district to provide the program.

(c) The commissioner shall award funds to districts in accordance with a competitive grant process developed by the commissioner. A grant may be made to a consortium of school districts. The criteria by which the commissioner awards a grant must include the quality of the proposed program and the school district's demonstrated need for the program. An approved program must include criteria that permit measurement of student progress, and the district shall:

(1) annually evaluate the progress of students in the program; and

(2) submit the results of the evaluation to the commissioner at the end of the school year.

(d) The commissioner shall establish minimum levels of student enrollment and standards of student progress required for continued funding of a

program under this section. The commissioner may eliminate funding for a program in a subsequent school year if the program fails to achieve sufficient levels of student progress.

(e) The amount of a grant under this section must take into account funds distributed to the school district under Chapter 42.

(f) The commissioner may adopt rules for the administration of programs under this section.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.02, effective September 1, 1999.)

Sec. 29.087. High School Equivalency Programs.

(a) The agency shall develop a process by which a school district or open-enrollment charter school may apply to the commissioner for authority to operate a program to prepare eligible students to take a high school equivalency examination.

(b) Any school district or open-enrollment charter school may apply for authorization to operate a program under this section. As part of the application process, the commissioner shall require a district or school to provide information regarding the operation of any similar program during the preceding five years.

(b-1) A school district or open-enrollment charter school authorized by the commissioner on or before August 31, 2003, to operate a program under this section may continue to operate that program in accordance with this section.

(c) A school district or open-enrollment charter school may not increase enrollment of students in a program authorized by this section by more than five percent of the number of students enrolled in the similar program operated by the district or school during the 2000-2001 school year.

(d) A student is eligible to participate in a program authorized by this section if:

(1) the student has been ordered by a court under Article 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, or by the Texas Youth Commission to:

(A) participate in a preparatory class for the high school equivalency examination; or

(B) take the high school equivalency examination administered under Section 7.111; or

(2) the following conditions are satisfied:

(A) the student is at least 16 years of age at the beginning of the school year or semester;

(B) the student is a student at risk of dropping out of school, as defined by Section 29.081;

(C) the student and the student's parent or guardian agree in writing to the student's participation;

(D) at least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one third of the credits required to graduate under the minimum graduation requirements of the district or school; and

(E) any other conditions specified by the commissioner.

(e) A school district or open-enrollment charter school shall inform each student who has completed a program authorized by this section of the time and place at which the student may take the high school equivalency examination. Notwithstanding any provision of this section, a student may not take the high school equivalency examination except as authorized by Section 7.111.

(f) A student participating in a program authorized by this section, other than a student ordered to participate under Subsection (d)(1), must have taken the appropriate end-of-course assessment instruments specified by Section 39.023(c) before entering the program and must take each appropriate end-of-course assessment instrument administered during the period in which the student is enrolled in the program. Except for a student ordered to participate under Subsection (d)(1), a student participating in the program may not take the high school equivalency examination unless the student has taken the assessment instruments required by this subsection.

(g) A student enrolled in a program authorized by this section may not participate in a competition or other activity sanctioned or conducted by the University Interscholastic League.

(h) A student who has received a high school equivalency certificate is entitled to enroll in a public school as authorized by Section 25.001 and is entitled to the benefits of the Foundation School Program under Section 42.003 in the same manner as any other student who has not received a high school diploma.

(i) The agency shall request permission from the General Educational Development Testing Service to administer the service's high school equivalency examination to students enrolled in high school who participate in a program authorized by this section. From funds appropriated to the agency that may be used for the purpose, the agency may pay a fee imposed by the service for granting permission to the agency necessary to allow operation of programs authorized by this section.

(j) For purposes of funding under Chapters 41, 42, and 46, a student attending a program authorized by this section may be counted in attendance only for the actual number of hours each school day the

student attends the program, in accordance with Sections 25.081 and 25.082.

(k) The board of trustees of a school district or the governing board of an open-enrollment charter school shall:

(1) hold a public hearing concerning the proposed application of the district or school before applying to operate a program authorized by this section; and

(2) subsequently hold a public hearing annually to review the performance of the program.

(*l*) The commissioner may revoke a school district's or open-enrollment charter school's authorization under this section after consideration of relevant factors, including performance of students participating in the district's or school's program on assessment instruments required under Chapter 39, the percentage of students participating in the district's or school's program who complete the program and perform successfully on the high school equivalency examination, and other criteria adopted by the commissioner. A decision by the commissioner under this subsection is final and may not be appealed.

(m) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(9), effective June 17, 2011.]

(n) The commissioner may adopt rules to implement this section.

(o) [Repealed by Acts 2003, 78th Leg., ch. 373 (S.B. 1470), § 2, effective June 18, 2003.]

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 8, effective September 1, 2001; enacted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 7, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 41, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 373 (S.B. 1470), §§ 1, 2, effective June 18, 2003; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 5, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(9), effective June 17, 2011.)

Sec. 29.088. After-School and Summer Intensive Mathematics Instruction Programs.

(a) A school district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics instruction to:

(1) students who are not performing at grade level in mathematics to assist those students in performing at grade level;

(2) students who are not performing successfully in a mathematics course to assist those students in successfully completing the course; or

(3) students other than those described by Subdivision (1) or (2), as determined by the district.

(b) Before providing a program under this section, the board of trustees of a school district must adopt a policy for:

(1) determining student eligibility for participating in the program that:

(A) prescribes the grade level or course a student must be enrolled in to be eligible; and

(B) provides for considering teacher recommendations in determining eligibility;

(2) ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

(3) ensuring that eligible students are encouraged to attend the program;

(4) ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and

(5) measuring student progress on completion of the program.

(c) The commissioner by rule shall:

(1) prescribe a procedure that a school district must follow to apply for and receive funding for a program under this section;

(2) adopt guidelines for determining which districts receive funding if there is not sufficient funding for each district that applies;

(3) require each district providing a program to report student performance results to the commissioner within the period and in the manner prescribed by the rule; and

(4) based on district reports under Subdivision (3) and any required analysis and verification of those reports, disseminate to each district in this state information concerning instructional methods that have proved successful in improving student performance in mathematics.

(d) A program provided under this section shall be paid for with funds appropriated for that purpose.

(Enacted by Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(15), effective September 1, 2003 (renumbered from Sec. 29.087).)

Sec. 29.089. Mentoring Services Program.

(a) Each school district may provide a mentoring services program to students at risk of dropping out of school, as defined by Section 29.081.

(b) The commissioner, in consultation with the governor, lieutenant governor, and speaker of the house of representatives, by rule shall determine accountability standards under this section for a school district providing a mentoring services program using funds allocated under Section 42.152.

(c) The board of trustees of the district shall obtain the consent of a student's parent or guardian

before allowing the student to participate in the program.

(d) The board of trustees of the district may arrange for any public or nonprofit community-based organization to come to the district's schools and implement the program.

(Enacted by Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 4, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 783 (S.B. 16), § 1, effective September 1, 2003.)

Sec. 29.090. After — School and Summer Intensive Science Instruction Programs.

(a) A school district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide science instruction to:

(1) students who are not performing at grade level in science to assist those students in performing at grade level;

(2) students who are not performing successfully in a science course to assist those students in successfully completing the course; or

(3) students other than those described by Subdivision (1) or (2), as determined by the district.

(b) Before providing a program under this section, the board of trustees of a school district must adopt a policy for:

(1) determining student eligibility for participating in the program that:

(A) prescribes the grade level or course a student must be enrolled in to be eligible; and

(B) provides for considering teacher recommendations in determining eligibility;

(2) ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

(3) ensuring that eligible students are encouraged to attend the program;

(4) ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and

(5) measuring student progress on completion of the program.

(c) The commissioner by rule shall:

(1) prescribe a procedure that a school district must follow to apply for and receive funding for a program under this section;

(2) adopt guidelines for determining which districts receive funding if there is not sufficient funding for each district that applies;

(3) require each district providing a program to report student performance results to the commissioner within the period and in the manner prescribed by the rule; and

(4) based on district reports under Subdivision (3) and any required analysis and verification of those reports, disseminate to each district in this state information concerning instructional methods that have proved successful in improving student performance in science.

(d) A program provided under this section shall be paid for with funds appropriated for that purpose.

(Enacted by Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 4, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(14-a), effective September 1, 2005 (renumbered from Sec. 29.089).)

Sec. 29.091. Grant Program for Districts That Have High Enrollment of Educationally Disadvantaged Students and That Provide Summer Instruction.

(a) In this section:

(1) "New teacher" means a teacher who:

(A) will be teaching for the first time during the next school year; or

(B) first began teaching:

(i) during the preceding two years; or

(ii) in the school district in which the teacher is currently employed during the preceding year.

(2) "Program" means the grant program for school districts to provide summer instruction primarily for students who are educationally disadvantaged, as established under this section.

(b) The commissioner shall establish and administer a competitive program to provide grants to not more than 10 school districts to use in providing instructional programs to students in prekindergarten through eighth grade during the period in which school is recessed for the summer. The program shall be designed to:

(1) encourage participation in the program by a district's most educationally disadvantaged students;

(2) close the academic achievement gap between students who are educationally disadvantaged and students who are not educationally disadvantaged;

(3) ensure that during the period in which school is recessed for the summer, students participating in the program retain knowledge and skills learned during the school year and continue learning;

(4) provide apprenticeship, mentorship, and other professional development opportunities for new teachers and student teachers; and

(5) add to the compensation of a district's highest performing teachers by providing those teach-

ers with summer employment teaching students, new teachers, and student teachers.

(c) To be eligible to participate in the program, a school district must:

(1) have an enrollment of students who are educationally disadvantaged that is greater than 50 percent of total district enrollment;

(2) apply to the commissioner in the manner and within the time prescribed by commissioner rule; and

(3) provide as part of the application materials a plan that is designed to achieve the purposes described by Subsections (b)(1) through (5).

(d) In selecting from among eligible school districts to participate in the program, the commissioner shall select those districts that provide plans under Subsection (c)(3) that are the most innovative and represent a variety of approaches so that the effectiveness of various plans can be compared and evaluated.

(e) A grant awarded under this section may be funded only with money appropriated for the program and any gifts, grants, or donations made to the agency that may be used for and that the commissioner applies to funding the program. The commissioner, in accordance with commissioner rule and based on the amount available for the program, shall determine the amount of each grant awarded under this section. A school district awarded a grant under this section may use the grant only for implementing and administering a plan as described by Subsection (c)(3), including providing compensation to teachers in accordance with Subsection (b)(5) and commissioner rule.

(f) Each school district participating in the program shall, in the manner and within the time prescribed by commissioner rule, provide to the agency an annual written report that includes:

(1) a detailed description of the district's plan, as implemented;

(2) the number and grade levels of participating students;

(3) demographic information for participating students, including the percentage of students of each applicable race and ethnicity, the percentage of educationally disadvantaged students, the percentage of students of limited English proficiency as defined by Section 29.052, the percentage of students enrolled in a school district special education program under Subchapter A, and the percentage of students enrolled in a district bilingual education program under Subchapter B;

(4) school attendance rates for participating students, before, during, and after program participation, as applicable;

(5) specific information that demonstrates whether the purposes described by Subsections (b)(2) and (3) have been achieved, including the results of assessment instruments administered under Section 39.023 for participating students, before, during, and after program participation, as applicable;

(6) aggregate results of assessment instruments administered under Section 39.023 for students of participating classroom teachers, new teachers, and student teachers, before, during, and after program participation by the students, as applicable;

(7) information regarding the manner in which teachers are selected for participation in the program and the manner in which teachers are compensated for their participation;

(8) statistical information for participating classroom teachers, new teachers, and student teachers, including the number of years employed in the teaching profession, the number of years teaching in the district in which the program is provided, the category and class of educator certification held, the highest level of academic degree earned, race, ethnicity, and gender;

(9) information regarding whether:

(A) the program is provided on a full-day or half-day basis;

(B) the program is voluntary or mandatory for educationally disadvantaged students;

(C) the district has partnered with an outside provider to provide any supplemental service;

(D) the district provides transportation to participating students; and

(E) the district offers the program to students who are not educationally disadvantaged and, if so, under what circumstances;

(10) information on retention in the teaching profession of the participating teachers, including new teachers and student teachers; and

(11) any other information required by commissioner rule.

(g) The agency shall contract with an experienced and recognized third-party program evaluator to determine and prepare a report regarding the effectiveness of the program. The evaluator's report must include the evaluator's best effort to project the cost and academic effects of implementing the best practices of the program in school districts throughout this state and must describe the effectiveness of the program in:

(1) improving academic performance among participating students;

(2) improving the professional development and performance of new teachers; and

(3) rewarding and retaining the highest performing teachers.

(h) Not later than November 1 of each even-numbered year, the agency shall submit to each member of the legislature a report specifically describing the results of the program. The report may be in the form of a summary of the information required under Subsections (f) and (g).

(i) The commissioner shall adopt rules as necessary to administer this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1263 (H.B. 742), § 1, effective September 1, 2013.)

Sec. 29.094. Intensive Reading or Language Intervention Pilot Program.

(a) In this section, "pilot program" means the intensive reading or language intervention pilot program.

(b) The commissioner by rule shall establish a pilot program in which a participating campus provides intensive reading or language intervention to participating students.

(c) A campus may apply to the commissioner to participate in the pilot program. The commissioner may select for participation in the pilot program only campuses that have failed to improve student performance in reading according to standards established by the commissioner. The standards established by the commissioner for purposes of this subsection must be based on reading performance standards considered for student promotion under Section 28.021.

(d) The commissioner shall adopt minimum criteria that a program must meet to be selected by a participating campus for use in providing intensive reading or language intervention. The criteria must include neuroscience-based, scientifically validated methods, scientifically based reading interventions, or instructional tools that have been proven to accelerate language acquisition and reading proficiency for struggling readers. A participating campus shall submit a summary of the campus's proposed intensive intervention program to the commissioner for approval. The commissioner may approve only a program that follows the minimum criteria adopted under this subsection.

(e) The principal of a participating campus, in consultation with classroom teachers at the campus, shall select students to participate in the pilot program based on assessment data. Benchmark measures shall be administered at the beginning and end of the program.

(f) Not later than December 31, 2008, any vendor of an intensive intervention program approved under Subsection (d), in consultation with the agency and each school district with which the vendor contracts under this section, shall provide the legislature with a report describing student progress under the assessments administered to participating students under Subsection (e).

(g) Notwithstanding any other law, the commissioner shall provide funding for the pilot program using not more than $6 million of funding appropriated for purposes of Section 28.0211.

(h) The commissioner shall adopt rules necessary to implement this section.

(i) The commissioner shall make the pilot program available to participating campuses during the 2007-2008 and 2008-2009 school years.

(Enacted by Acts 2005, 79th Leg., ch. 1165 (H.B. 3468), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1015 (H.B. 1270), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 34, effective June 19, 2009.)

Sec. 29.095. Grants for Student Clubs.

(a) In this section:

(1) "Council" means the High School Completion and Success Initiative Council established under Subchapter M, Chapter 39.

(2) "Student at risk of dropping out of school" has the meaning assigned by Section 29.081(d).

(b) The commissioner shall administer a pilot program to provide grants to school districts to fund student club activities for students at risk of dropping out of school. From funds appropriated for purposes of this subchapter, the commissioner shall spend an amount not to exceed $4 million in any state fiscal biennium on the program.

(c) The commissioner may award a grant in an amount not to exceed $5,000 in a school year to a school district on behalf of a student club at a district high school campus that is eligible under the criteria established under Section 39.408. To be eligible for a grant, the student club and the club's sponsor must be sanctioned by the campus and district. A grant awarded under this program must be matched by other federal, state, or local funds, including donations, in an amount equal to the amount of the grant. A district shall seek donations or sponsorships from local businesses or community organizations to raise the matching funds. The commissioner may award a grant on behalf of more than one student club at a campus in the same school year.

(d) The commissioner shall establish application criteria for receipt of a grant under this section. The criteria must require confirmation that the appropriate campus-level planning and decision-making committee established under Subchapter F, Chapter 11, and the school district board of trustees have approved a plan that includes:

(1) a description of the student club;

(2) a statement of the student club's goals, intent, and activities;

(3) a statement of the source of funds to be used to match the grant;

(4) a budget for the student club;

(5) a statement showing that the student club's finances are sustainable; and

(6) any other information the council requires.

(e) The commissioner shall establish the minimum requirements for a local grant agreement, including requiring:

(1) the agreement to be signed by the sponsor of a student club receiving a grant and another authorized school district officer; and

(2) the district and the student club to participate in an evaluation, as determined by the council, of the club's program and the program's effect on student achievement and dropout rates.

(f) A student club may use funds awarded under this section to support academic or co-curricular club activities, other than athletics, in which at least 50 percent of the participating students have been identified as students at risk of dropping out of school. A student club may use funds for materials, sponsor stipends, and other needs that directly support the club's activities. A student club must use the entire amount of the grant to directly fund the club's activities described in the plan approved as provided by Subsection (d). A student club may not use more than 50 percent of a grant to pay sponsor stipends.

(g) The school district board of trustees shall ensure that funds awarded under this section are expended in compliance with Subsection (f). At the end of the school year, a student club that receives a grant must submit a report to the board of trustees summarizing the club's activities and the extent to which the club met the club's goals and achieved the club's intent. The decision of the board of trustees under this subsection relating to compliance with Subsection (f) is final and may not be appealed.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 11, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), §§ 35, 36, effective June 19, 2009.)

Sec. 29.096. Collaborative Dropout Reduction Pilot Program.

(a) In this section, "council" means the High School Completion and Success Initiative Council established under Subchapter M, Chapter 39.

(b) Using funds appropriated for that purpose in an amount not to exceed $4 million each year, the commissioner shall establish a pilot program under which a school district or open-enrollment charter school may receive a grant to implement a local collaborative dropout reduction program.

(c) A school district or open-enrollment charter school is eligible to participate and receive a grant under this section under the eligibility criteria established under Section 39.408.

(d) The commissioner shall establish application criteria for receiving a grant under this section. The criteria must require a school district or open-enrollment charter school that applies for a grant to collaborate with local businesses, other local governments or law enforcement agencies, nonprofit organizations, faith-based organizations, and institutions of higher education to deliver proven, research-based intervention services. The goal of the program is to coordinate services and programs among local entities to:

(1) comprehensively reduce the number of students who drop out of school in that community; and

(2) increase the job skills, employment opportunities, and continuing education opportunities of students who might otherwise have dropped out of school.

(e) The commissioner shall establish minimum standards for a local collaborative agreement, including a requirement that the agreement must be signed by an authorized school district or open-enrollment charter school officer and an authorized representative of each of the other participating entities that is a partner in the collaboration. The program must:

(1) limit participation in the program to students authorized to participate by a parent or other person standing in parental relationship;

(2) have as a primary goal graduation from high school;

(3) provide for local businesses or other employers to offer paid employment or internship opportunities and advanced career and vocational training;

(4) include an outreach component and a lead educational staff member to identify and involve eligible students and public and private entities in participating in the program;

(5) serve a population of students of which at least 50 percent are identified as students at risk of dropping out of school, as described by Section 29.081(d);

(6) allocate not more than 15 percent of grant funds and matching funds, as determined by the commissioner, to administrative expenses;

(7) include matching funds from any of the participating entities; and

(8) include any other requirements as determined by the council.

(f) A local collaborative agreement under this section may:

(1) be coordinated with other services provided to students or their families by public or private entities;

(2) provide for local businesses to support the program, including:

(A) encouraging employees to engage in mentoring students and other school-related volunteer activities; and

(B) using matching funds to provide paid time off for volunteer activities under Paragraph (A) and other activities related to encouraging school involvement of parents of students enrolled in the program;

(3) allow grant funds to reimburse reasonable costs of participating entities;

(4) provide for electronic course delivery by a school district, an open-enrollment charter school, or an institution of higher education; and

(5) be hosted or housed by a chamber of commerce, local workforce agency, local employer, or other public or private participating entity.

(g) The commissioner may approve innovative instructional techniques for courses in the enrichment curriculum leading to high school graduation under a local collaborative dropout reduction program and shall develop accountability measures appropriate to those programs. From funds appropriated, the commissioner may fund electronic courses that are part of a collaborative program and that are otherwise eligible for state funds. Funding for an electronic course may not exceed the total amount of state and local funding for a student to which the school district or open-enrollment charter school would otherwise be entitled.

(h) Nothing in this section authorizes the award of a high school diploma other than in compliance with Section 28.025.

(i) The commissioner shall adopt rules necessary to administer the pilot program under this section. (Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 11, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 37, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 21(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 21(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 29.097. Intensive Technology-Based Academic Intervention Pilot Program.

(a) In this section:

(1) "Council" means the High School Completion and Success Initiative Council established under Subchapter M, Chapter 39.

(2) "Pilot program" means the intensive technology-based academic intervention pilot program.

(b) From funds appropriated for that purpose in an amount not to exceed $3 million each year, the commissioner shall establish a pilot program for the commissioner to award grants to participating campuses to provide intensive technology-based supplementary instruction in English, mathematics, science, or social studies to students in grades nine through 12 identified as being at risk of dropping out of school, as described by Section 29.081(d). Instruction techniques and technology used by a campus under this section must be based on the best available research, as determined by the council, regarding college and workforce readiness.

(c) The commissioner may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.408.

(d) A program supported by a grant under this section to provide intensive technology-based supplementary instruction at a campus may:

(1) include comprehensive course plans and teacher guides that are aligned with one or more subjects of the foundation curriculum described by Section 28.002(a)(1);

(2) include technology-based supplementary instruction;

(3) include training, professional development, and mentoring for teachers;

(4) provide students individual access to technology-based supplementary instruction at least 90 minutes each week;

(5) demonstrate significant effectiveness in high schools serving students identified as being at risk of dropping out of school, as described by Section 29.081(d);

(6) be selected in consultation with the teachers at the affected campus; and

(7) be implemented in partnership with institutions of higher education.

(e) The primary purpose of a program supported by a grant under this section to provide intensive technology-based supplementary instruction at a campus is to benefit students identified as being at risk of dropping out of school, as described by Section 29.081(d), but grant funds may be used to benefit a campus-wide program if the use of the funds does not defeat the primary purpose provided by this subsection.

(f) A grant awarded under this section:

(1) may not exceed $50 for each participating student; and

(2) must be matched by other federal, state, or local funds, including private donations.

(g) For purposes of Subsection (f)(2), a school district is encouraged to use funds allocated under Section 42.160.

(h) A grant awarded under this section may not be used to replace federal, state, or local funds previously spent on an instructional program, but may be used to expand an existing program.

(i) The entire amount of a grant awarded under this section:

(1) must fund the program described in the application for the grant; and

(2) may be used for:

(A) supplementary instructional support systems;

(B) technology used primarily for the delivery of supplementary instruction;

(C) teacher training and professional development; and

(D) other necessary costs, as determined by the commissioner.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 11, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), §§ 38, 39, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 20, effective September 1, 2009.)

Sec. 29.098. Intensive Summer Programs.

(a) In this section, "pilot program" means the intensive summer pilot program for students identified as being at risk of dropping out of school or college.

(b) The commissioner shall establish a pilot program to award grants to participating campuses to provide intensive academic instruction during the period in which school is recessed for the summer to promote college and workforce readiness to students identified as being at risk of dropping out of school, as defined by Section 29.081. A grant awarded under this section may be used to fund any of the following categories of programs:

(1) a program administered by a school district in partnership with an institution of higher education to provide intensive academic instruction in English language arts, mathematics, and science to promote high school completion and college readiness; and

(2) a program administered by a school district in partnership with an institution of higher education to provide intensive academic instruction in reading and mathematics to students in grades six through eight to promote high school completion and college readiness.

(c) The commissioner may select for participation in the pilot program only a campus that is eligible under the criteria established under Section 39.408.

(d) A grant awarded under this section:

(1) may not exceed $750 for each participating student; and

(2) must be matched by not less than $250 for each participating student in other federal, state, or local funds, including private donations.

(e) For purposes of Subsection (d)(2), a school district is encouraged to use funds allocated under Section 42.160.

(f) A grant awarded under this section may not be used to replace federal, state, or local funds previously spent on a summer intensive program, but may be used to expand an existing program.

(g) The entire amount of a grant awarded under this section:

(1) must fund the program described in the application for the grant; and

(2) may be used for:

(A) instructional materials;

(B) technology used primarily for the delivery of supplementary instruction;

(C) teacher training and professional development, including educator stipends; and

(D) other necessary costs, as determined by the commissioner.

(h) Instructional materials adopted by the State Board of Education shall be used for instruction in a program under this section. The State Board of Education may adopt any additional instructional materials as necessary for a program under this section.

(i) The State Board of Education shall include information technology instructional resources that incorporate established best practices for instruction among approved instructional materials for intensive summer programs under this section to enhance the effectiveness of the programs.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 11, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 851 (S.B. 2258), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 40, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 21, effective September 1, 2009.)

Sec. 29.099. Intensive Mathematics and Algebra Intervention Pilot Program.

(a) In this section, "intervention program" means the intensive mathematics and algebra intervention pilot program.

(b) The commissioner by rule shall establish an intervention pilot program in which a participating district will provide:

(1) intensive mathematics intervention for students who are not performing at grade level in mathematics in grades four through seven; and

(2) algebra readiness intervention for students who are not performing at grade level in mathematics in grade eight.

(c) Districts may implement the intensive mathematics and algebra intervention pilot program at a campus whose population of at-risk students exceeds the state average proportion of at-risk students.

(d) A participating campus shall identify a student who does not perform at grade level on an assessment instrument administered under Section 39.023(a)(1), or an equivalent assessment instrument administered under Section 39.023(*l*), as a student eligible for participation in the intervention program. During a student's placement in the intervention program, a campus shall use progress monitoring assessments to ensure that a student is making appropriate progress in the program.

(e) The commissioner shall adopt a list of mathematics and algebra intervention programs that may be implemented by a school district and funded under this program. Programs placed on the commissioner's list will be reviewed and recommended by a panel of recognized experts in mathematics education.

(f) The commissioner shall adopt minimum criteria that a program must meet to be included on the list adopted by the commissioner. The criteria must:

(1) include comprehensive course plans and teacher guides that are organized around the essential knowledge and skills curriculum for mathematics;

(2) include technology-based supplementary instruction that can diagnose and address areas in which a student is identified to need improvement;

(3) include at least three cumulative days of training, professional development, and mentoring for teachers;

(4) provide students individual access to technology-based supplementary instruction at least 90 minutes each week;

(5) provide teachers daily access to required technology;

(6) demonstrate significant effectiveness in schools serving students identified as being at risk of dropping out of school, as described by Section 29.081(d); and

(7) be selected in consultation with the teachers at the affected campus from the list adopted pursuant to Subsection (e).

(g) The commissioner shall adopt rules necessary to implement this section.

(h) Program Evaluation. The commissioner of education shall contract for the evaluation of the effectiveness of the intervention program established under this section. The commissioner may consider centers for education research to conduct this evaluation. The evaluation shall describe progress under the assessment instruments administered under Section 39.023(a)(1) or equivalent assessment instruments administered under Section 39.023(*l*) to students participating in the intervention program.

(i) Report to the Legislature. Not later than December 1 of each even-numbered year, the commissioner shall prepare and deliver a report to the legislature that recommends any statutory changes the commissioner considers appropriate to promote improved mathematics and algebra readiness in Texas schools.

(Enacted by Acts 2007, 80th Leg., ch. 893 (H.B. 2504), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(5), effective September 1, 2009 (renumbered from Sec. 29.095).)

SUBCHAPTER D
EDUCATIONAL PROGRAMS FOR GIFTED AND TALENTED STUDENTS

Sec. 29.121. Definition.

In this subchapter, "gifted and talented student" means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

(1) exhibits high performance capability in an intellectual, creative, or artistic area;

(2) possesses an unusual capacity for leadership; or

(3) excels in a specific academic field.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.122. Establishment.

Using criteria established by the State Board of Education, each school district shall adopt a process for identifying and serving gifted and talented students in the district and shall establish a program for those students in each grade level. A district may establish a shared services arrangement program with one or more other districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.123. State Plan; Assistance.

The State Board of Education shall develop and periodically update a state plan for the education of gifted and talented students to guide school districts in establishing and improving programs for identified students. The regional education service centers

may assist districts in implementing the state plan. In addition to obtaining assistance from a regional education service center, a district may obtain other assistance in implementing the plan. The plan shall be used for accountability purposes to measure the performance of districts in providing services to students identified as gifted and talented.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.124. Texas Governor's Schools [Renumbered].

Renumbered to Tex. Educ. Code § 61.07621 by Acts 2007, 80th Leg., ch. 876 (H.B. 1748), § 1, effective June 15, 2007.

SUBCHAPTER E
KINDERGARTEN AND PREKINDERGARTEN PROGRAMS

Sec. 29.151. Free Kindergarten.

The board of trustees of each school district shall establish and maintain one or more kindergartens for the training of children residing in the district who are at least five years of age on September 1 of the school year.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.152. Operation of Kindergartens on Half-Day or Full-Day Basis.

A public school kindergarten may be operated on a half-day or a full-day basis at the option of the board of trustees of the school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.153. Free Prekindergarten for Certain Children.

(a) In this section:

(1) "Child" includes a stepchild.

(2) "Parent" includes a stepparent.

(a-1) A district shall offer prekindergarten classes if the district identifies 15 or more children who are eligible under Subsection (b) and are at least four years of age. A school district may offer prekindergarten classes if the district identifies 15 or more eligible children who are at least three years of age. A district may not charge tuition for a prekindergarten class offered under this section.

(b) A child is eligible for enrollment in a prekindergarten class under this section if the child is at least three years of age and:

(1) is unable to speak and comprehend the English language;

(2) is educationally disadvantaged;

(3) is a homeless child, as defined by 42 U.S.C. Section 11434a, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;

(4) is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;

(5) is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or

(6) is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section 262.201, Family Code.

(c) A prekindergarten class under this section shall be operated on a half-day basis. A district is not required to provide transportation for a prekindergarten class, but transportation, if provided, is included for funding purposes as part of the regular transportation system.

(d) On application of a district, the commissioner may exempt a district from the application of this section if the district would be required to construct classroom facilities in order to provide prekindergarten classes.

(e) Each school district shall develop a system to notify the population in the district with children who are eligible for enrollment in a prekindergarten class under this section of the availability of the class. The system must include public notices issued in English and Spanish.

(f) A child who is eligible for enrollment in a prekindergarten class under Subsection (b)(4) or (5) remains eligible for enrollment if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins a prekindergarten class.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; Acts 1999, 76th Leg., ch. 62 (S.B 1368), art. 4, § 4.01, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 596 (S.B. 596), § 1, effective June 11, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 6, § 6.01, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 850 (H.B. 1137), § 4, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1406 (S.B. 758), § 1(a), effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 975 (H.B. 3643), § 1, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 975 (H.B. 3643), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Sec. 29.1531. Tuition-Supported and District-Financed Prekindergarten.

(a) A school district may offer on a tuition basis or use district funds to provide:

(1) an additional half-day of prekindergarten classes to children eligible for classes under Section 29.153; and

(2) half-day and full-day prekindergarten classes to children not eligible for classes under Section 29.153.

(b) A district that offers a prekindergarten program on a tuition basis:

(1) may not adopt a tuition rate for the program that is higher than necessary to cover the added costs of providing the program, including any costs associated with collecting, reporting, and analyzing data under Section 29.1532(c); and

(2) must submit the proposed tuition rate to the commissioner for approval.

(Enacted by Acts 2001, 77th Leg., ch. 596 (S.B. 596), § 1, effective June 11, 2001.)

Sec. 29.1532. Prekindergarten Program Requirements.

(a) A school district's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills.

(b) If a school district contracts with a private entity for the operation of the district's prekindergarten program, the program must at a minimum comply with the applicable child-care licensing standards adopted by the Department of Protective and Regulatory Services under Section 42.042, Human Resources Code.

(c) A school district that offers prekindergarten classes shall include the following information in the district's Public Education Information Management System (PEIMS) report:

(1) demographic information, as determined by the commissioner, on students enrolled in district prekindergarten classes, including the number of students who are eligible for classes under Section 29.153;

(2) the numbers of half-day and full-day prekindergarten classes offered by the district; and

(3) the sources of funding for the prekindergarten classes.

(Enacted by Acts 2001, 77th Leg., ch. 596 (S.B. 596), § 1, effective June 11, 2001.)

Sec. 29.1533. Establishment of New Prekindergarten Program.

Before establishing a new prekindergarten program, a school district shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. (Enacted by Acts 2003, 78th Leg., ch. 790 (S.B. 76), § 1, effective September 1, 2003.)

Sec. 29.1534. Notification of Prekindergarten Programs.

(a) In this section, "prekindergarten program" includes prekindergarten programs provided by a private entity through a partnership with the school district.

(b) The agency shall develop joint strategies with other state agencies regarding methods to increase community awareness of prekindergarten programs through programs that provide information relating to public assistance programs.

(c) The agency may develop outreach materials for use by school districts to increase community awareness of prekindergarten programs.

(d) [Expired pursuant to Acts 2009, 81st Leg., ch. 592 (H.B. 136), § 1, effective September 1, 2013.]

(e) The agency shall provide information to school districts regarding effective methods to communicate to the parent of an eligible child the availability of prekindergarten programs, including information regarding prekindergarten programs through public, private, and nonprofit institutions that provide assistance and support to families with children eligible for prekindergarten programs.

(f) [Expired pursuant to Acts 2009, 81st Leg., ch. 592 (H.B. 136), § 1, effective January 1, 2011.]

(Enacted by Acts 2009, 81st Leg., ch. 592 (H.B. 136), § 1, effective September 1, 2009.)

Sec. 29.154. Evaluation of Prekindergarten Programs.

The commissioner of education, in consultation with the commissioner of human services, shall monitor and evaluate prekindergarten programs as to their developmental appropriateness. The commissioners shall also evaluate the potential for coordination on a statewide basis of prekindergarten programs with government-funded early childhood care and education programs such as child care administered under Chapter 44, Human Resources Code, and federal Head Start programs. That evaluation shall use recommendations contained in the report to the 71st Legislature required by Chapter 717, Acts of the 70th Legislature, Regular Session, 1987. For the purpose of providing cost-effective care for children during the full workday with developmentally appropriate curriculum, the commissioners shall investigate the use of existing child-care program sites as prekindergarten sites. Following the evaluation required by this section, the commis-

sioners, in cooperation with school districts and other program administrators, shall integrate programs, staff, and program sites for prekindergarten, child-care, and federal Head Start programs to the greatest extent possible.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.155. Kindergarten and Prekindergarten Grants.

(a) From amounts appropriated for the purposes of this section, the commissioner may make grants to school districts and open-enrollment charter schools to implement or expand kindergarten and prekindergarten programs by:

(1) operating an existing half-day kindergarten or prekindergarten program on a full-day basis; or

(2) implementing a prekindergarten program at a campus that does not have a prekindergarten program.

(b) A school district or open-enrollment charter school may use funds received under this section to employ teachers and other personnel for a kindergarten or prekindergarten program and acquire curriculum materials or equipment, including computers, for use in kindergarten and prekindergarten programs.

(c) To be eligible for a grant under this section, a school district or open-enrollment charter school must apply to the commissioner in the manner and within the time prescribed by the commissioner.

(d) In awarding grants under this section, the commissioner shall give priority to districts and open-enrollment charter schools in which the level of performance of students on the assessment instruments administered under Section 39.023 to students in grade three is substantially below the average level of performance on those assessment instruments for all school districts in the state.

(e) The commissioner may adopt rules to administer this section.

(f) Notwithstanding Section 7.056(e)(3)(I), the commissioner may waive a requirement prescribed by this subchapter to the extent necessary to implement a grant awarded under this section or Section 29.156.

(g) From amounts appropriated for the purposes of this subsection, the commissioner may also provide for:

(1) coordinating early childhood care and education programs;

(2) developing and disseminating for programs described by Subdivision (1) prekindergarten instructional materials and school-readiness information for parents; and

(3) developing standards for model early childhood care and education coordination.

(h) The model program standards developed under Subsection (g) must focus on pre-literacy skills, including language acquisition, vocabulary development, and phonological awareness.

(i) In carrying out the purposes of Subsection (g), a school district or open-enrollment charter school may use funds granted to the district or school under this subsection in contracting with another entity, including a private entity.

(j) If a school district or open-enrollment charter school returns to the commissioner funds granted under this section, the commissioner may grant those funds to another entity, including a private entity, for the purposes of Subsection (g).
(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 2.01, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 790 (S.B. 76), § 2, effective September 1, 2003.)

Sec. 29.156. Grants for Educational Component of Head Start.

(a) From funds appropriated for the purpose, the commissioner shall make grants for use in providing an educational component to federal Head Start programs or similar government-funded early childhood care and education programs.

(b) The commissioner shall adopt rules for implementation of this section, including rules prescribing eligibility criteria for receipt of a grant and for expenditure of grant funds.
(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.01, effective September 1, 1999.)

Sec. 29.1561. Administration of Early Childhood Care and Education Programs.

(a) The commissioner may waive a law or rule relating to early childhood care and education programs:

(1) to the extent that the law or rule is more restrictive than required by federal law; or

(2) to the extent necessary to comply with federal law.

(b) Notwithstanding any restriction imposed by this title, the commissioner may administer grants for early childhood care and education programs under Section 29.155 or 29.156, including Head Start and Early Head Start programs, in a manner that provides the greatest flexibility allowed under federal law.

(c) The commissioner by rule may establish a program to provide incentives to providers of early childhood care and education programs that, to the

greatest extent practicable, provide coordinated services authorized under Section 29.158(c).
(Enacted by Acts 2003, 78th Leg., ch. 790 (S.B. 76), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 275 (S.B. 23), § 1, effective September 1, 2005.)

Sec. 29.157. Ready to Read Grants.

(a) From funds appropriated for the purpose, the commissioner shall make grants as provided by this section in support of pre-reading instruction.

(b) The commissioner shall establish a competitive grant program for distribution of at least 95 percent of the available appropriated funds. Grants shall be used to provide scientific, research-based pre-reading instruction for the purpose of directly improving pre-reading skills and for identifying cost-effective models for pre-reading intervention. The commissioner shall distribute the grants in amounts not less than $50,000 or more than $150,000 to eligible applicants to be used for:

(1) professional staff development in pre-reading instruction;

(2) pre-reading curriculum and materials;

(3) pre-reading skills assessment materials; and

(4) employment of pre-reading instructors.

(c) A public school operating a prekindergarten program, or an eligible entity as defined by Section 12.101(a) that provides a preschool instruction program and that meets qualifications prescribed by the commissioner, is eligible to apply for a grant if at least 75 percent of the children enrolled in the program are low-income students, as determined by rule of the commissioner.

(d) As a condition to receiving a grant, an applicant must commit public or private funds matching the grant in a percentage set by the commissioner. The commissioner shall determine the required percentage of matching funds based on the demonstrated economic capacity of the community served by the program to raise funds for the purpose of matching the grant, as determined by the commissioner. Matching funds must equal at least 30 percent, but not more than 75 percent, of the amount of the grant.

(e) The commissioner shall develop and implement performance measures for evaluating the effectiveness of grants under this section. Those measures must correlate to other reading diagnostic assessments used in public schools in kindergarten through the second grade.

(f) The commissioner may adopt rules as necessary for the administration of this section.
(Enacted by Acts 1999, 76th Leg., ch. 402 (S.B. 955), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 21, § 21.001(17), effective September 1, 2001 (renumbered from Sec. 29.155).)

Sec. 29.158. Coordination of Services.

(a) In a manner consistent with federal law and regulations, each prekindergarten program provider, Head Start and Early Head Start program provider, and provider of an after-school child-care program provided at a school shall coordinate with the agency, the Texas Workforce Commission, and local workforce development boards regarding subsidized child-care services.

(b) The coordination required by this section must include:

(1) providing to an applicant for a child-care service information regarding:

(A) child-care resource and referral agencies serving the applicant's community;

(B) information and referral providers serving the applicant's community; or

(C) the prekindergarten program, local child-care and development fund contractor, or Head Start program administrator serving the applicant's community; and

(2) coordinating to ensure, to the extent practicable, that full-day, full-year child-care services are available to meet the needs of low-income parents who are working or participating in workforce training or workforce education.

(c) The coordination required by this section may also include:

(1) cooperating with each state agency regarding child-care or child-development studies conducted by that agency;

(2) collecting data necessary to determine a child's eligibility for subsidized child-care services or a prekindergarten, Head Start or Early Head Start, or after-school child-care program, to the extent that the collection of data does not violate the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(3) cooperating to provide for staff training and professional development activities;

(4) identifying and developing methods for the collaborative provision of subsidized child-care services and prekindergarten, Head Start or Early Head Start, or after-school child-care program services, including:

(A) operating a combined system for eligibility determination or registration processes so that an applicant may apply for all services available in an applicant's community through a single point of access;

(B) sharing facilities or staff; and

(C) increasing the enrollment capacity of those programs;

(5) identifying child-care facilities located in close proximity to prekindergarten, Head Start or Early Head Start, or after-school child-care programs;

(6) coordinating transportation between child-care facilities identified under Subdivision (5) and a prekindergarten, Head Start or Early Head Start, or after-school child-care program; and

(7) coordinating with the State Center for Early Childhood Development to develop longitudinal studies to measure the effects of quality early childhood care and education programs on educational achievement, including high school performance and completion.

(d) In coordinating child-care services under this section and in making any related decision to contract with another provider for child-care services, the agency, Texas Workforce Commission, local workforce development boards, and each prekindergarten program provider, Head Start and Early Head Start program provider, and provider of an after-school child-care program provided at a school shall consider the quality of the services involved in the proposed coordination or contracting decision and shall give preference to services of the highest quality. Any appropriate indicator of quality services may be considered under this subsection, including whether the provider of the services:

(1) meets Texas Rising Star Program certification criteria;

(2) is accredited by a nationally recognized accrediting organization approved by the Texas Workforce Commission and the Department of Family and Protective Services;

(3) meets standards developed by the State Center for Early Childhood Development; or

(4) has achieved any other measurable target relevant to improving the quality of child care in this state.

(e) Any coordination required by this section that involves a prekindergarten program must be approved by the commissioner.

(Enacted by Acts 2003, 78th Leg., ch. 790 (S.B. 76), § 4, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 241 (H.B. 376), § 1, effective September 1, 2013.)

Sec. 29.159. Provision of Certain Information.

(a) Except as otherwise provided by this section, each provider of government-funded child-care services shall, at the time that a child is enrolled with the provider, furnish to the child's parent information regarding:

(1) effective early education settings; and

(2) any indicators that a child is ready for kindergarten that have been developed at the time the child is enrolled.

(b) If a provider does not have sufficient resources to provide the information specified by Subsection (a), the provider shall:

(1) furnish the parent with the appropriate telephone numbers or Internet sites through which the parent may obtain the information; or

(2) refer the parent to a local child-care resource and referral agency.

(Enacted by Acts 2003, 78th Leg., ch. 790 (S.B. 76), § 4, effective September 1, 2003.)

Sec. 29.160. Demonstration Projects.

(a) The State Center for Early Childhood Development, in conjunction with a school district, regional education service center, institution of higher education, local government, local workforce development board, or community organization, may develop a quality rating system demonstration project under which prekindergarten program providers, licensed child-care facilities, or Head Start and Early Head Start program providers are assessed under a quality rating system.

(b) In developing the quality rating system demonstration project, the State Center for Early Childhood Development is entitled to:

(1) reasonable access to the sites at which the programs to be rated are operated, which may include sites under the authority of school districts or the Department of Protective and Regulatory Services; and

(2) technical assistance and support from the agency, the Texas Workforce Commission, and the Department of Protective and Regulatory Services to the extent that those agencies have the ability to provide assistance and support using existing agency resources.

(c) A school district, regional education service center, institution of higher education, local government, local workforce development board, or community organization may develop one or more coordination-of-resources demonstration projects under which government-funded child-care and early education services, including Head Start and Early Head Start, prekindergarten, and after-school child-care program services, child-care services provided by nonprofit or for-profit entities, and faith-based child-care programs, are operated in a coordinated and integrated manner. An entity that develops a proposed demonstration project under this subsection must obtain approval of the project from the state agency or agencies with regulatory jurisdiction over the subject matter involved in the project.

Approval of a project under this subsection must be made contingent on development of a memorandum of understanding regarding the child-care and early education coordination and integration that is:

(1) entered into by each entity participating in the project;

(2) certified by the State Center for Early Childhood Development as meeting any standards developed under Section 29.155(g); and

(3) consistent with the applicable provisions of this section and applicable laws and regulations in a manner that at a minimum maintains existing child-care and early education program requirements and does not waive any existing health and safety standards.

(c-1) The memorandum of understanding required under Subsection (c) shall provide for:

(1) equal decision-making authority for entities participating in the project;

(2) uniform eligibility criteria for the project to the extent authorized by state and federal law;

(3) development of streamlined enrollment procedures and simplified forms for children eligible for services under the project;

(4) strategies for the colocation and management of staff and for facilitation of effective communication among staff members;

(5) alignment and coordination of program calendars;

(6) delineation of responsibilities for the provision of instructional supplies and materials and food services;

(7) development and implementation of a system by which eligible children are referred for services among the participating entities in a manner that complies with applicable laws and regulations;

(8) periodic meetings of the participating entities to address concerns relating to the administration and operation of the project; and

(9) periodic meetings of the participating entities to address common standards for the professional development of program staff and to create opportunities to ensure that local communities have effective program staff.

(c-2) A demonstration project established under Subsection (c) must include a program evaluation component that, in addition to assessing child-care and early education outcomes for young children, demonstrates:

(1) the extent to which program quality has been enhanced;

(2) the extent to which the number of children being served by full-day, full-year programs has increased;

(3) the extent to which professional development training or activities engaged in by program staff has increased; and

(4) that there has been no weakening of standards or diminishment of services.

(d) An entity that obtains approval of a coordination-of-resources demonstration project is entitled to a waiver or modification of any existing rule, policy, or procedure of the agency, the Texas Workforce Commission, or the Department of Protective and Regulatory Services that impairs the coordinated provision of government-funded child-care services, provided that the waiver or modification does not adversely affect the health, safety, or welfare of the children receiving services under the project. In addition, if applicable, the appropriate state agency must seek on behalf of the entity any available federal waiver from a federal rule, policy, or procedure imposed in connection with a Head Start program that impairs the coordinated provision of government-funded child-care services. Not later than the 30th day after the date on which a state agency becomes aware of an applicable federal waiver under this subsection, the state agency shall notify the appropriate entity of the date by which the state agency intends to seek the waiver.

(e), (f) [Repealed by Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(2), effective September 1, 2013.]

(Enacted by Acts 2003, 78th Leg., ch. 790 (S.B. 76), § 4, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 275 (S.B. 23), § 2, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(2), effective September 1, 2013.)

Sec. 29.161. School Readiness Certification System.

(a) The State Center for Early Childhood Development, in conjunction with the P-16 Council established under Section 61.076, shall develop and adopt a school readiness certification system for use in certifying the effectiveness of prekindergarten programs, Head Start and Early Head Start programs, government-subsidized child-care programs provided by nonprofit or for-profit entities, government-subsidized faith-based child-care programs, and other government-subsidized child-care programs in preparing children for kindergarten. The system shall be made available on a voluntary basis to program providers seeking to obtain certification as evidence of the quality of the program provided.

(b) In developing and adopting the system, the center shall seek the active participation of all interested stakeholders, including parents and program providers.

(c) The system must:

(1) be reflective of research in the field of early childhood care and education;

(2) be well-grounded in the cognitive, social, and emotional development of young children;

(3) apply a common set of criteria to each program provider seeking certification, regardless of the type of program or source of program funding; and

(4) be capable of fulfilling the reporting and notice requirements of Sections 28.006(d) and (g).

(d) The agency shall collect each student's raw score results on the reading instrument administered under Section 28.006 from each school district using the system created under Subsection (a) and shall contract with the State Center for Early Childhood Development for purposes of this section.

(e) The State Center for Early Childhood Development shall, using funds appropriated for the school readiness certification system, provide the system created under Subsection (a) to each school district to report each student's raw score results on the reading instrument administered under Section 28.006.

(f) The agency shall:

(1) provide assistance to the State Center for Early Childhood Development in developing and adopting the school readiness certification system under this section, including providing access to data for the purpose of locating the teacher and campus of record for students; and

(2) require confidentiality and other security measures for student data provided to the State Center for Early Childhood Development as the agency's agent, consistent with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(Enacted by Acts 2005, 79th Leg., ch. 275 (S.B. 23), § 3, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.005, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 3, effective June 15, 2007.)

SUBCHAPTER F
CAREER AND TECHNOLOGY EDUCATION PROGRAM

Sec. 29.181. Public Education Career and Technology Education Goals.

Each public school student shall master the basic skills and knowledge necessary for:

(1) managing the dual roles of family member and wage earner; and

(2) gaining entry-level employment in a high-skill, high-wage job or continuing the student's education at the postsecondary level.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.182. State Plan for Career and Technology Education.

(a) The agency shall prepare and biennially update a state plan for career and technology education that sets forth objectives for career and technology education for the next biennium and long-term goals for the following five years.

(b) The state plan must include procedures designed to ensure that:

(1) all secondary and postsecondary students have the opportunity to participate in career and technology education programs;

(2) the state complies with requirements for supplemental federal career and technology education funding;

(3) career and technology education is established as a part of the total education system of this state and constitutes an option for student learning that provides a rigorous course of study consistent with the required curriculum under Section 28.002 and under which a student may receive specific education in a career and technology program that:

(A) incorporates competencies leading to academic and technical skill attainment;

(B) leads to:

(i) an industry-recognized license, credential, or certificate; or

(ii) at the postsecondary level, an associate or baccalaureate degree;

(C) includes opportunities for students to earn college credit for coursework; and

(D) includes, as an integral part of the program, participation by students and teachers in activities of career and technical student organizations supported by the agency and the State Board of Education; and

(4) a school district provides, to the greatest extent possible, to a student participating in a career and technology education program opportunities to enroll in dual credit courses designed to lead to a degree, license, or certification as part of the program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 41, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 22, effective June 10, 2013.)

Sec. 29.183. Career and Technology and Other Educational Programs.

(a) The board of trustees of a school district may conduct and supervise career and technology classes

and other educational programs for students and for other persons of all ages and spend local maintenance funds for the cost of those classes and programs.

(b) In developing a career and technology program, the board of trustees shall consider the state plan for career and technology education required under Section 29.182.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.184. Contracts with Other Schools for Career and Technology Classes.

(a) The board of trustees of a school district may contract with another school district or with a public or private postsecondary educational institution or trade or technical school that is regulated by this state, as designated in the state plan for career and technology education required under Section 29.182, to provide career and technology classes for students in the district.

(b) A student who attends career and technology classes at another school under a contract authorized by Subsection (a) is included in the average daily attendance of the district in which the student is regularly enrolled.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.185. Career and Technology Program Requirements and Procedures.

(a) The agency shall prescribe requirements for career and technology education in public schools as necessary to comply with federal law.

(b) The agency shall establish procedures for each school district and open-enrollment charter school to:

(1) accurately identify students who are enrolled in a tech-prep program as described by Section 61.852; and

(2) report the accurate number of tech-prep program students to the agency and the Texas Higher Education Coordinating Board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 446 (S.B. 1410), § 1, effective September 1, 2011.)

Sec. 29.186. Pilot Project [Expired].

Expired pursuant to Acts 1997, 75th Leg., ch. 957 (H.B. 1468), § 1, effective August 31, 2007.

(Enacted by Acts 1997, 75th Leg., ch. 957 (H.B. 1468), § 1, effective September 1, 1997.)

Sec. 29.187. Award for Distinguished Achievement in Career and Technology Education; Program.

(a) In addition to the authority granted under Section 29.183, the board of trustees of a school district may develop and offer a program that provides a rigorous course of study consistent with the required curriculum under Section 28.002 and under which a student may:

(1) receive specific education in a career and technology profession that:

(A) leads to postsecondary education; or

(B) meets or exceeds business or industry standards; and

(2) obtain from the district an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

(b) An award granted under this section is not in lieu of a diploma or certificate of coursework completion issued under Section 28.025.

(c) In developing a program under this section, the board of trustees of a school district shall consider the state plan for career and technology education required under Section 29.182.

(d) The board of trustees of a school district may contract with an entity listed in Section 29.184(a) for assistance in developing the program or providing instruction to district students participating in the program.

(e) The board of trustees of a school district may also contract with a local business or a local institution of higher education for assistance in developing or operating a program under this section. A program may provide education in areas of technology unique to the local area.

(f) The board of trustees of a school district may provide insurance to protect a business that contracts with the district under Subsection (e) against liability for a bodily injury sustained by or the death of a district student while working for the business as part of a program established under this section. The board shall notify the parent or guardian of each student working for a business if the board provides insurance to the business under this subsection. The amount of insurance the district provides must be reasonable considering the financial condition of the district. The insurance must be:

(1) obtained from a reliable insurer authorized to engage in business in the state; and

(2) submitted on a form approved by the commissioner of insurance.

(g) If a business that contracts with a district under Subsection (e) obtains any insurance related to the student other than liability insurance, any proceeds of the insurance must be used for the benefit of the student and the student's family.

(h) The board of trustees of a school district must submit a proposed program under this section to the commissioner of education in accordance with criteria established by the commissioner.
(Enacted by Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 3, effective May 16, 2003.)

Sec. 29.188. Recognition of Successful Career and Technology Education Program.

The governor is encouraged to present a proclamation or certificate to each member of the business and industry community that the Texas Workforce Commission, in cooperation with the agency, determines has successfully assisted in the provision of a career and technology education program under this subchapter.
(Enacted by Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 4, effective September 1, 2003.)

Sec. 29.190. Subsidy for Certification Examination.

(a) A student is entitled to a subsidy under this section if:

(1) the student:

(A) successfully completes the career and technology program of a school district in which the student receives training and instruction for employment; or

(B) is enrolled in a special education program under Subchapter A; and

(2) the student passes a certification examination to qualify for a license or certificate.

(b) [Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(1), effective September 1, 2013.]

(c) On approval by the commissioner, the agency shall pay each school district an amount equal to the cost paid by the district for the certification examination. To obtain reimbursement for a subsidy paid under this section, a district must:

(1) pay the fee for the examination; and

(2) submit to the commissioner a written application on a form prescribed by the commissioner stating the amount of the fee paid under Subdivision (1) for the certification examination.

(d), (e) [Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(1), effective September 1, 2013.]
(Enacted by Acts 2007, 80th Leg., ch. 1225 (H.B. 2383), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 22, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 23(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(1), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 23(b) provides: "This section applies beginning with the 2013-2014 school year."

SUBCHAPTER G
PUBLIC EDUCATION GRANT PROGRAM

Sec. 29.201. Parental Choice.

Notwithstanding any other provision of this code, as provided by this subchapter an eligible student may attend a public school in the district in which the student resides or may use a public education grant to attend any other district chosen by the student's parent.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.202. Eligibility.

(a) A student is eligible to receive a public education grant or to attend another public school in the district in which the student resides under this subchapter if the student is assigned to attend a public school campus:

(1) at which 50 percent or more of the students did not perform satisfactorily on an assessment instrument administered under Section 39.023(a) or (c) in any two of the preceding three years; or

(2) that, at any time in the preceding three years, failed to satisfy any standard under Section 39.054(e).

(b) After a student has used a public education grant to attend a school in a district other than the district in which the student resides:

(1) the student does not become ineligible for the grant if the school on which the student's initial eligibility is based no longer meets the criteria under Subsection (a); and

(2) the student becomes ineligible for the grant if the student is assigned to attend a school that does not meet the criteria under Subsection (a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 722 (H.B. 318), § 2, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 767, § 9, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 3, § 3.08, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 42, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.007, effective September 1, 2011.)

Sec. 29.203. Financing.

(a) A student who under this subchapter uses a public education grant to attend a public school in a

school district other than the district in which the student resides is included in the average daily attendance of the district in which the student attends school.

(b) A school district is entitled to the allotment provided by Section 42.157 for each eligible student using a public education grant. If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, a school district is entitled under rules adopted by the commissioner to additional state aid in an amount equal to the difference between the cost to the district of providing services to a student using a public education grant and the sum of the state aid received because of the allotment under Section 42.157 and money from the available school fund attributable to the student.

(c) A school district is entitled to additional facilities assistance under Section 42.4101 if the district agrees to:

(1) accept a number of students using public education grants that is at least one percent of the district's average daily attendance for the preceding school year; and

(2) provide services to each student until the student either voluntarily decides to attend a school in a different district or graduates from high school.

(d) A school district chosen by a student's parent under Section 29.201 is entitled to accept or reject the application for the student to attend school in that district but may not use criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. A school district that has more acceptable applicants for attendance under this subchapter than available positions must give priority to students at risk of dropping out of school as defined by Section 29.081 and must fill the available positions by lottery. However, to achieve continuity in education, a school district may give preference over at-risk students to enrolled students and to the siblings of enrolled students residing in the same household or other children residing in the same household as enrolled students for the convenience of parents, guardians, or custodians of those children.

(e) A school district chosen by a student's parent under Section 29.201 may not charge the student tuition.

(f) The school district in which a student resides shall provide each student attending a school in another district under this subchapter transportation free of charge to and from the school the student would otherwise attend.

(g) In this section:

(1) "Equalized wealth level" has the meaning assigned by Section 41.001.

(2) "Guaranteed wealth level" means a wealth per student equal to the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, as provided by Section 42.302, multiplied by 10,000.

(3) "Wealth per student" has the meaning assigned by Section 41.001.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 722 (H.B. 318), § 2, effective September 1, 1997.)

Sec. 29.204. Notification.

(a) Not later than January 1 of each year the commissioner shall, based on the most recent information available, provide notice to each school district in which a campus described by Section 29.202 is located that:

(1) identifies each campus in the district that meets the description in Section 29.202; and

(2) informs the district that the district must comply with Subsection (b).

(b) Not later than February 1 of each year, a school district shall notify the parent of each student in the district assigned to attend a campus described by Section 29.202 that the student is eligible for a public education grant. The notice must contain a clear, concise explanation of the public education grant program and of the manner in which the parent may obtain further information about the program.

(Enacted by Acts 1997, 75th Leg., ch. 722 (H.B. 318), § 3, effective September 1, 1997.)

Sec. 29.205. Contract Authority.

The board of trustees of a school district may contract under Section 11.157 for the provision of educational services to a district student eligible to receive a public education grant under Section 29.202.

(Enacted by Acts 1997, 75th Leg., ch. 722 (H.B. 318), § 4, effective September 1, 1997.)

SUBCHAPTER H
COMMUNITY EDUCATION PROGRAMS

Sec. 29.251. Definitions.

In this subchapter:

(1) to (3) [Repealed by Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(2), effective September 1, 2013.]

(4) "Community education" means the process by which the citizens in a school district, using the

resources and facilities of the district, organize to support each other and to solve their mutual educational problems and meet their mutual lifelong needs. Community education may include:

(A) educational programs, including programs relating to cultural awareness, parenting skills education and parental involvement in school programs, and multilevel adult education and personal growth;

(B) community involvement programs, including programs for community economic development, school volunteers, partnerships between schools and businesses, coordination with community agencies, school-age child care, family literacy, and community use of facilities; and

(C) programs for youth enrolled in schools, including programs for dropout prevention and recovery programs, drug-free school programs, school-age parenting programs, and academic enhancement.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 73 (S.B. 307), §§ 2.03, 2.06(a)(2), effective September 1, 2013.)

Sec. 29.252. Agency Role in Community Education.

(a) The agency shall:

(1) develop, implement, and regulate a comprehensive statewide program for community education services;

(2) administer all state and federal funds for community education in this state, other than funds that another entity is specifically authorized to administer under other law; and

(3) accept and administer grants, gifts, services, and funds from available sources for use in community education.

(b) The agency may adopt rules for the administration of this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 761 (H.B. 1640), § 1, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 817 (S.B. 280), art. 5, § 5.03, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.04, effective September 1, 2013.)

Sec. 29.253. Provision of Adult Education Programs [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(3), effective September 1, 2013.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.2531. Adult Education Assessment [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(4), effective September 1, 2013.

(Enacted by Acts 2011, 82nd Leg., ch. 1183 (H.B. 3468), § 2, effective June 17, 2011.)

Sec. 29.2535. Service Provider Contracts: Competitive Procurement Requirement [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(5), effective September 1, 2013.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 60.01, effective September 28, 2011.)

Sec. 29.254. Adult Education Advisory Committee [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.06(a)(6), effective September 1, 2013.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.255. State Funding.

Funds shall be appropriated to implement statewide community education programs, including pilot programs to demonstrate the effectiveness of the community education concept. The agency shall ensure that public local education agencies, public nonprofit agencies, and community-based organizations have direct and equitable access to those funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 73 (S.B. 307), § 2.05, effective September 1, 2013.)

Sec. 29.256. Reimbursement for Community Education Services.

(a) A school district whose governing board elects to provide community education for all age groups may on application and according to rules adopted by the agency be reimbursed for those costs from state funds to the extent authorized by this section.

(b) Only a district that has in the preceding or current year achieved a level of community education services prescribed by the agency is eligible for reimbursement under this section. The agency's rules must contain specific provisions for eligibility and program operation.

(c) The cost to the state shall be paid from the foundation school fund.

(d) The legislature in the General Appropriations Act shall set a limit on the amount of funds that may be expended under this section each year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 4, effective September 1, 1997.)

Sec. 29.257. Community Education Development Projects.

(a) The legislature may appropriate money from the foundation school fund to the agency for developing and implementing community education projects. The agency shall actively seek gifts, grants, or other donations for purposes related to community education development projects, unless the acceptance is prohibited by other law. Money received under this subsection shall be deposited in the account established under Subsection (b) and may be appropriated only for the purpose for which the money was given.

(b) The community education development account is created as a dedicated account in the foundation school fund in the state treasury. The account shall consist of community education related gifts, grants, and donations and shall be administered by the agency.

(c) Subject to legislative appropriation and except as provided by Subsection (g), a school district to which the agency awards money for a community education development project is entitled to receive money for a period of three years. After that period, a project must be funded wholly from local sources. State funding under this section may not exceed:

(1) $50,000 for the first year of a project;

(2) $35,000 for the second year of a project; or

(3) $20,000 for the third year of a project.

(d) The State Board of Education by rule shall establish procedures for distributing community education development money to school districts. The procedures must include a statewide competitive process by which the agency, in accordance with procedures adopted by board rule, evaluates applications for community education development money and awards money to the districts whose projects the agency determines have the greatest merit. A school district may seek review of an agency determination regarding the award of money only in accordance with an administrative review process adopted by board rule. A school district may not seek judicial review of an agency determination.

(e) An application for funding under this section must include:

(1) a resolution adopted by the board of trustees of the school district adopting a particular community education development project plan;

(2) in accordance with rules adopted by the State Board of Education, a description of:

(A) the objectives of the proposed project, including, if appropriate, quantitative targets for the objectives; and

(B) the particular means by which the objectives are to be achieved;

(3) the estimated funding requirements and the data or analysis used to prepare the estimate;

(4) a statement outlining the manner in which the proposed project achieves goals for community education and complies with the requirements of this section;

(5) a statement of the manner in which the project is to be funded after the third year;

(6) a provision for a survey of community education needs in the district that:

(A) incorporates the objectives of community education;

(B) is completed and analyzed by the district in the first year of the project; and

(C) adheres to statistical techniques recognized as valid by professional statisticians;

(7) a provision for the maximum efficient use of existing school facilities in the first year of the project;

(8) a provision for the establishment of an advisory committee of at least 15 members who:

(A) are selected without regard to race or sex;

(B) are selected to reflect persons from the local business community, governmental agencies, public and private nonprofit educational interests, parents, and the general public; and

(C) serve without compensation; and

(9) a designation of a district community education administrator whose primary responsibility is the implementation and supervision of the community education program.

(f) The agency shall monitor each project awarded money under this section in accordance with rules adopted by the State Board of Education. The agency shall evaluate whether the project has satisfactorily carried out the district's objectives as set out in the community education project plan. The board by rule may provide a process for amending the plan.

(g) A school district is not entitled to funding for any year of a project for which:

(1) the district did not apply for funding; or

(2) the agency suspends the funding based on the agency's determination that the district has failed to satisfactorily implement the project's objectives.

(h) The State Board of Education by rule shall provide for an administrative process for the suspension of funding under Subsection (g)(2). The rules must be consistent with Chapter 2001, Government Code.

(i) The State Board of Education may adopt rules necessary to implement and enforce this section, including rules relating to financial audits of school districts that receive money under this section. Rules adopted under this section by the State Board of Education may not permit the board or the agency to waive any provision of this section.

(j) The agency may not use more than five percent of the funds appropriated for the projects under this section for the agency's administration of this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 5, effective September 1, 1997.)

Sec. 29.259. Adult High School Diploma and Industry Certification Charter School Pilot Program.

(a) In this section, "adult education" means services and instruction provided below the college level for adults by a nonprofit entity described by Subsection (e).

(b) The commissioner shall establish an adult high school diploma and industry certification charter school pilot program as provided by this section as a strategy for meeting industry needs for a sufficiently trained workforce within the state.

(c) The agency shall adopt and administer a standardized secondary exit-level assessment instrument appropriate for assessing adult education program participants who successfully complete high school curriculum requirements under a program provided under this section. The commissioner shall determine the level of performance considered to be satisfactory on the secondary exit-level assessment instrument for receipt of a high school diploma by an adult education program participant in a program provided under this section.

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, a charter under the pilot program may, on the basis of an application submitted, be granted to a single nonprofit entity described by Subsection (e) to provide an adult education program for not more than 150 individuals described by Subsection (g) to successfully complete:

(1) a high school program that can lead to a diploma; and

(2) career and technology education courses that can lead to industry certification.

(e) A nonprofit entity may be granted a charter under this section only if the entity:

(1) has a successful history of providing education services, including industry certifications and job placement services, to adults 18 years of age and older whose educational and training opportunities have been limited by educational disadvantages, disabilities, homelessness, criminal history, or similar circumstances; and

(2) agrees to commit at least $1 million to the adult education program offered.

(f) A nonprofit entity granted a charter under this section may partner with a public junior college to provide career and technology courses that lead to industry certification.

(g) A person who is at least 19 years of age and not more than 50 years of age is eligible to enroll in the adult education program under this section if the person has not earned a high school equivalency certificate and:

(1) has failed to complete the curriculum requirements for high school graduation; or

(2) has failed to perform satisfactorily on an assessment instrument required for high school graduation.

(h) The nonprofit entity must include in its charter application the information required by Subsection (i).

(i) A charter granted under this section must:

(1) include a description of the adult education program to be offered under this section; and

(2) establish specific, objective standards for receiving a high school diploma, including satisfactory performance on the standardized secondary exit-level assessment instrument described by Subsection (c).

(j) Funding for an adult education program under this section is provided based on the following:

(1) for participants who are 26 years of age and older, an amount per participant from available general revenue funds appropriated for the pilot program equal to the statewide average amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program to an open-enrollment charter school under Section 12.106 were the student under 26 years of age; and

(2) for participants who are at least 19 years of age and under 26 years of age, an amount per participant through the Foundation School Program equal to the amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program for the student's attendance at an open-enrollment charter school in accordance with Section 12.106.

(k) Sections 12.107 and 12.128 apply as though funds under this section were funds under Subchapter D, Chapter 12.

(*l*) Not later than December 1 of each even-numbered year, beginning December 1, 2016, the agency

shall prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing legislative committee with primary jurisdiction over public education or economic development a report that:

(1) evaluates any adult education program operated under a charter granted under this section; and

(2) makes recommendations regarding the abolition, continuation, or expansion of the pilot program.

(m) The commissioner shall adopt rules necessary to administer the pilot program under this section. In adopting rules, the commissioner may modify charter school requirements only to the extent necessary for the administration of a charter school under this section that provides for adult education.

(Enacted by Acts 2013, 83rd Leg., ch. 478 (S.B. 1142), § 1, effective September 1, 2013.)

SUBCHAPTER I
PROGRAMS FOR STUDENTS WHO ARE DEAF OR HARD OF HEARING

Sec. 29.301. Definitions.

In this subchapter:

(1) "Admission, review, and dismissal committee" means the committee required by State Board of Education rules to develop the individualized education program required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) for any student needing special education.

(2) "American Sign Language" means a complete, visual, and manual language with its own grammar and syntax.

(3) "English" includes writing, reading, speech, speech reading, cued speech, and any English-based manual-visual method of communication.

(4) "Unique communication mode" or "appropriate language mode" includes English and American Sign Language.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.302. Findings.

(a) The legislature finds that it is essential for the well-being and growth of students who are deaf or hard of hearing that educational programs recognize the unique nature of deafness and the hard-of-hearing condition and ensure that all students who are deaf or hard of hearing have appropriate, ongoing, and fully accessible educational opportunities. Students who are deaf or hard of hearing may choose to use a variety of language modes and languages, including oral and manual-visual language. Students who are deaf may choose to communicate through the language of the deaf community, American Sign Language, or through any of a number of English-based manual-visual languages. Students who are hard of hearing may choose to use spoken and written English, including speech reading or lip reading, together with amplification instruments, such as hearing aids, cochlear implants, or assistive listening systems, to communicate with the hearing population. Students who are deaf or hard of hearing may choose to use a combination of oral or manual-visual language systems, including cued speech, manual signed systems, and American Sign Language, or may rely exclusively on the oral-aural language of their choice. Students who are deaf or hard of hearing also may use other technologies to enhance language learning.

(b) The legislature recognizes that students who are deaf or hard of hearing should have the opportunity to develop proficiency in English, including oral or manual-visual methods of communication, and American Sign Language.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.303. Unique Communication.

Students who are deaf or hard of hearing must have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.304. Qualifications of Personnel.

(a) A student who is deaf or hard of hearing must have an education in which teachers, psychologists, speech therapists, progress assessors, administrators, and others involved in education understand the unique nature of deafness and the hard-of-hearing condition. A teacher of students who are deaf or hard of hearing either must be proficient in appropriate language modes or use an interpreter certified in appropriate language modes if certification is available.

(b) Each school district shall employ or provide access to appropriate qualified staff with proficient communications skills, consistent with credentialing requirements, to fulfill the responsibilities of the school district, and shall make positive efforts to employ qualified individuals with disabilities.

(c) Regular and special personnel who work with students who are deaf or hard of hearing must be

adequately prepared to provide educational instruction and services to those students.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.305. Language Mode Peers.

If practicable and not in conflict with any admission, review, and dismissal committee recommendations, a student who is deaf or hard of hearing must have an education in the company of a sufficient number of peers using the same language mode and with whom the student can communicate directly. If practicable, the peers must be of the same or approximately the same age and ability.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.306. Familial and Advocate Involvement.

A student who is deaf or hard of hearing must have an education in which the student's parents or legal guardians and advocates for the student's parents or legal guardians are involved in determining the extent, content, and purpose of programs. Other individuals, including individuals who are deaf or hard of hearing, may be involved at the discretion of parents or legal guardians or the school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.307. Role Models.

A student who is deaf or hard of hearing shall be given the opportunity to be exposed to deaf or hard-of-hearing role models.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.308. Regional Programs.

Regional programs for students who are deaf or hard of hearing shall meet the unique communication needs of students who can benefit from those programs. Appropriate funding for those programs shall be consistent with federal and state law, and money appropriated to school districts for educational programs and services for students who are deaf or hard of hearing may not be allocated or used for any other program or service.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.309. Composition of Local Special Education Advisory Committee.

If practicable, in a school district in which there are students who are deaf or hard of hearing, the local special education advisory committee required under State Board of Education rule must include persons who are deaf or hard of hearing and parents and legal guardians of students who are deaf or hard of hearing.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.310. Procedures and Materials for Assessment and Placement.

(a) Procedures and materials for assessment and placement of students who are deaf or hard of hearing shall be selected and administered so as not to be racially, culturally, or sexually discriminatory.

(b) A single assessment instrument may not be the sole criterion for determining the placement of a student.

(c) The procedures and materials for the assessment and placement of a student who is deaf or hard of hearing shall be in the student's preferred mode of communication. All other procedures and materials used with any student who is deaf or hard of hearing and who has limited English proficiency shall be in the student's preferred mode of communication.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.311. Educational Programs.

(a) Educational programs for students who are deaf or hard of hearing must be coordinated with other public and private agencies, including:

(1) agencies operating early childhood intervention programs;

(2) preschools;

(3) agencies operating child development programs;

(4) nonpublic, nonsectarian schools;

(5) agencies operating regional occupational centers and programs; and

(6) the Texas School for the Deaf.

(b) As appropriate, the programs must also be coordinated with postsecondary and adult programs for persons who are deaf or hard of hearing.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.312. Psychological Counseling Services.

Appropriate psychological counseling services for a student who is deaf or hard of hearing shall be made available at the student's school site in the student's primary mode of communication. In the case of a student who is hard of hearing, appropriate auditory systems to enhance oral communication shall be used if required by the student's admission, review, and dismissal committee.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.313. Evaluation of Programs.

Each school district must provide continuous evaluation of the effectiveness of programs of the district for students who are deaf or hard of hearing. If practicable, evaluations shall follow program excellence indicators established by the agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.314. Transition into Regular Class.

In addition to satisfying requirements of the admission, review, and dismissal committee and to satisfying requirements under state and federal law for vocational training, each school district shall develop and implement a transition plan for the transition of a student who is deaf or hard of hearing into a regular class program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day. The transition plan must provide for activities:

(1) to integrate the student into the regular education program and specify the nature of each activity and the time spent on the activity each day; and

(2) to support the transition of the student from the special education program into the regular education program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.315. Texas School for the Deaf Memorandum of Understanding.

The Texas Education Agency and the Texas School for the Deaf shall develop, agree to, and by commissioner rule adopt no later than September 1, 1998, a memorandum of understanding to establish:

(1) the method for developing and reevaluating a set of indicators of the quality of learning at the Texas School for the Deaf;

(2) the process for the agency to conduct and report on an annual evaluation of the school's performance on the indicators;

(3) the requirements for the school's board to publish, discuss, and disseminate an annual report describing the educational performance of the school;

(4) the process for the agency to assign an accreditation status to the school, to reevaluate the status on an annual basis, and, if necessary, to make on-site accreditation investigations; and

(5) the type of information the school shall be required to provide through the Public Education Information Management System (PEIMS).

(Enacted by Acts 1997, 75th Leg., ch. 1340 (S.B. 1918), § 6, effective September 1, 1997.)

SUBCHAPTER K
PUBLIC JUNIOR COLLEGE AND SCHOOL DISTRICT PARTNERSHIP PROGRAM TO PROVIDE DROPOUT RECOVERY

Sec. 29.401. Applicability [Expired].

Expired pursuant to Acts 2011, 82nd Leg., ch. 643 (S.B. 975), § 1, and by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 1, effective September 1, 2013.

(Enacted by Acts 2011, 82nd Leg., ch. 643 (S.B. 975), § 1, effective June 17, 2011; Enacted by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 1, effective June 17, 2011.)

Sec. 29.402. Partnership.

(a) A public junior college may enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the public junior college a dropout recovery program for students described by Subsection (b) to successfully complete and receive a diploma from a high school of the appropriate partnering school district.

(b) A person who is under 26 years of age is eligible to enroll in a dropout recovery program under this subchapter if the person:

(1) must complete not more than three course credits to complete the curriculum requirements for the foundation high school program for high school graduation; or

(2) has failed to perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c) or an assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007.

(c) A public junior college under this section shall:

(1) design a dropout recovery curriculum that includes career and technology education courses that lead to industry or career certification;

(2) integrate into the dropout recovery curriculum research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

(A) high quality, college readiness instruction with strong academic and social supports;

(B) secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

(C) information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose;

(3) offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses; and

(4) coordinate with each partnering school district to provide in the articulation agreement that the district retains accountability for student attendance, student completion of high school course requirements, and student performance on assessment instruments as necessary for the student to receive a diploma from a high school of the partnering school district.

(c-1) A public junior college under this section may partner with a public technical institute, as defined by Section 61.003, to provide, as part of the dropout recovery program curriculum, career and technology education courses that lead to industry or career certification.

(d) A dropout recovery program provided under this subchapter must comply with the requirements of Sections 29.081(e) and (f).

(Enacted by Acts 2011, 82nd Leg., ch. 643 (S.B. 975), § 1, effective June 17, 2011; Enacted by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 155 (S.B. 860), § 1, effective May 24, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 24(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act [June 17, 2011]."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 24(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 29.403. Financing.

(a) A public junior college district may receive from each partnering school district for each student from that district enrolled in a dropout recovery program under this subchapter an amount negotiated between the junior college district and that partnering district not to exceed the total average per student funding amount in that district during the preceding school year for maintenance and operations, including state and local funding, but excluding money from the available school fund.

(b) A student who is enrolled in a program under this subchapter is included in determining the average daily attendance under Section 42.005 of the partnering school district.

(c) A public technical institute may receive from a partnering public junior college for each student enrolled in a career and technology education course as provided by Section 29.402(c-1) an amount negotiated between the public technical institute and the partnering public junior college.

(Enacted by Acts 2011, 82nd Leg., ch. 643 (S.B. 975), § 1, effective June 17, 2011; Enacted by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 155 (S.B. 860), § 2, effective May 24, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act [June 17, 2011]."

Sec. 29.404. Other Funding.

(a) To the extent consistent with the General Appropriations Act, a public junior college under this subchapter is eligible to receive dropout prevention and intervention program funds appropriated to the agency.

(b) A public junior college under this subchapter may receive gifts, grants, and donations to use for the purposes of this subchapter.

(Enacted by Acts 2011, 82nd Leg., ch. 643 (S.B. 975), § 1, effective June 17, 2011; Enacted by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act [June 17, 2011]."

SUBCHAPTER L
SCHOOL DISTRICT PROGRAM FOR RESIDENTS OF FORENSIC STATE SUPPORTED LIVING CENTER

Sec. 29.451. Definitions.

In this subchapter, "alleged offender resident," "interdisciplinary team," and "state supported living center" have the meanings assigned by Section 555.001, Health and Safety Code.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by

this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.452. Applicability.

This subchapter applies only to an alleged offender resident of the forensic state supported living center established under Section 555.002, Health and Safety Code.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.453. School District Services.

(a) A school district shall provide educational services, including services required under Subchapter A, to each alleged offender resident who is under 22 years of age and otherwise eligible under Section 25.001 to attend school in the district. The district shall provide educational services to each alleged offender resident who is 21 years of age on September 1 of the school year and otherwise eligible to attend school in the district until the earlier of:

(1) the end of that school year; or

(2) the student's graduation from high school.

(b) The educational placement of an alleged offender resident and the educational services to be provided by a school district to the resident shall be determined by the resident's admission, review, and dismissal committee consistent with federal law and regulations regarding the placement of students with disabilities in the least restrictive environment. The resident's admission, review, and dismissal committee shall:

(1) inform the resident's interdisciplinary team of a determination the committee makes in accordance with this subsection; and

(2) consult, to the extent practicable, with the resident's interdisciplinary team concerning such a determination.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.454. Behavior Management; Behavior Support Specialists.

(a) The discipline of an alleged offender resident by a school district is subject to Sections 37.0021 and 37.004 and to federal law governing the discipline of students with disabilities.

(b) A school district in which alleged offender residents are enrolled shall employ one or more behavior support specialists to serve the residents while at school. A behavior support specialist must:

(1) hold a baccalaureate degree;

(2) have training in providing to students positive behavioral support and intervention, as determined by the commissioner of education; and

(3) meet any other requirement jointly determined by the commissioner of education and the commissioner of the Department of Aging and Disability Services.

(c) A behavior support specialist shall conduct for each alleged offender resident enrolled in the school district a functional behavioral assessment that includes:

(1) data collection, through interviews with and observation of the resident;

(2) data analysis; and

(3) development of an individualized school behavioral intervention plan for the resident.

(d) Each behavior support specialist shall:

(1) ensure that each alleged offender resident enrolled in the school district is provided behavior management services under a school behavioral intervention plan based on the resident's functional behavioral assessment, as described by Subsection (c);

(2) communicate and coordinate with the resident's interdisciplinary team to ensure that behavioral intervention actions of the district and of the forensic state supported living center do not conflict;

(3) in the case of a resident who regresses:

(A) ensure that necessary corrective action is taken in the resident's individualized education program or school behavioral intervention plan, as appropriate; and

(B) communicate with the resident's interdisciplinary team concerning the regression and encourage the team to aggressively address the regression;

(4) participate in the resident's admission, review, and dismissal committee meetings in conjunction with:

(A) developing and implementing the resident's school behavioral intervention plan; and

(B) determining the appropriate educational placement for each resident, considering all available academic and behavioral information;

(5) coordinate each resident's school behavioral intervention plan with the resident's program of active treatment provided by the forensic state supported living center to ensure consistency of approach and response to the resident's identified behaviors;

(6) provide training for school district staff and, as appropriate, state supported living center staff in implementing behavioral intervention plans for each resident; and

(7) remain involved with the resident during the school day.

(e) Section 22.0511 applies to a behavior support specialist employed under this section by a school district.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.455. Memorandum of Understanding.

(a) A school district in which alleged offender residents are enrolled in school and the forensic state supported living center shall enter into a memorandum of understanding to:

(1) establish the duties and responsibilities of the behavior support specialist to ensure the safety of all students and teachers while educational services are provided to a resident at a school in the district; and

(2) ensure the provision of appropriate facilities for providing educational services and of necessary technological equipment if a resident's admission, review, and dismissal committee determines that the resident must receive educational services at the forensic state supported living center.

(b) A memorandum of understanding under Subsection (a) remains in effect until superseded by a subsequent memorandum of understanding between the school district and the forensic state supported living center or until otherwise rescinded.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.456. Failure of School District and Center to Agree.

(a) If a school district in which alleged offender residents are enrolled in school and the forensic state supported living center fail to agree on the services required for residents or responsibility for those services, the district or center may refer the issue in disagreement to the commissioner of education and the commissioner of the Department of Aging and Disability Services.

(b) If the commissioner of education and the commissioner of the Department of Aging and Disability Services are unable to bring the school district and forensic state supported living center to agreement, the commissioners shall jointly submit a written request to the attorney general to appoint a neutral third party knowledgeable in special education and mental retardation issues to resolve each issue on which the district and the center disagree. The decision of the neutral third party is final and may not be appealed. The district and the center shall implement the decision of the neutral third party. The commissioner of education or the commissioner of the Department of Aging and Disability Services shall ensure that the district and the center implement the decision of the neutral third party.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.457. Funding.

(a) In addition to other funding to which a school district is entitled under this code, each district in which alleged offender residents attend school is entitled to an annual allotment of $5,100 for each resident in average daily attendance or a different amount for any year provided by appropriation.

(b) Not later than December 1 of each year, a school district that receives an allotment under this section shall submit a report accounting for the expenditure of funds received under this section to the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and house of representatives with primary jurisdiction regarding persons with mental retardation and public education, and each member of the legislature whose district con-

tains any portion of the territory included in the school.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

Sec. 29.458. Rules.

The commissioner may adopt rules as necessary to administer this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 2, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 41 provides: "Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act."

SUBCHAPTER Z
MISCELLANEOUS PROGRAMS

Sec. 29.901. Military Instruction.

(a) In each school district in which military instruction is conducted under a state or federal law requiring the district to give bond or otherwise indemnify this state or the United States or any authorized agency of either in an amount and on conditions determined by any agency under that law for the care, safekeeping, and return of property furnished, the board of trustees may:

(1) make contracts with the proper governmental agency with respect to the teaching of courses in military training; and

(2) execute, as principal or surety, a bond to secure the contracts to procure arms, ammunition, animals, uniforms, equipment, supplies, means of transportation, or other needed property.

(b) In a district in which military instruction is given as provided by Subsection (a), available school funds may be spent to:

(1) procure from any guaranty or surety company any bond authorized by Subsection (a), in the amount and on the conditions required by the governmental agency; or

(2) reimburse this state or the United States for any loss pursuant to the terms of any contract entered into.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 29.902. Driver Education.

(a) The agency shall develop a program of organized instruction in driver education and traffic safety for public school students. A student who will be 15 years of age or older before a driver education and traffic safety course ends may enroll in the course.

(b) The agency shall establish standards for the certification of professional and paraprofessional personnel who conduct the programs in the public schools.

(c) A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

(1) conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education school that holds a license under Chapter 1001; or

(2) contract with a driver education school that holds a license under Chapter 1001 to conduct the course.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), art. 12, § 12.02, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 2, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 12.14(a) provides: "Section 29.902(c), Education Code, as added by this article, applies beginning with the 2010-2011 school year."

Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 12.14 and Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 21(a) provide: "Section 29.902(c), Education Code, as added by this Act, applies beginning with the 2010-2011 school year."

Sec. 29.9021. Water Safety Education.

The agency by rule shall incorporate a curriculum module on recreational water safety into driver education instruction using the video on recreational water safety produced under Section 12.012, Parks and Wildlife Code, when the agency is notified that the video is available.

(Enacted by Acts 2011, 82nd Leg., ch. 1275 (H.B. 673), § 2, effective June 17, 2011.)

Sec. 29.903. Cardiopulmonary Resuscitation (CPR) Instruction; Donations to School Districts for Use in CPR Instruction.

(a) A school district may accept from the agency donations the agency receives under Section 7.026 for use in providing instruction to students in the principles and techniques of CPR. A district may accept other donations, including donations of equipment, for use in providing the instruction.

(b) [Repealed by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 8, effective June 15, 2007.]

(c) A district may use resources other than those made available under Section 7.026 or this section to provide instruction to students in the principles and techniques of CPR.

(d) The commissioner may adopt rules as necessary to implement this section.

(Enacted by Acts 2001, 77th Leg., ch. 814 (H.B. 821), § 2, effective June 14, 2001; am Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 3(6), effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1371 (S.B. 7), §§ 5, 8, effective June 15, 2007.)

Sec. 29.904. Plan to Increase Enrollment in Institutions of Higher Education.

(a) This section applies only to a school district with one or more high schools that:

(1) during the preceding five years, have had an average of at least 26 students in the high school graduating class; and

(2) for any two consecutive years during the preceding five years, have been among the lowest 10 percent of high schools in this state in the percentage of students graduating from the high school and enrolling for the following academic year in an institution of higher education.

(b) The agency and the Texas Higher Education Coordinating Board shall collaborate in identifying each school district to which this section applies. Not later than May 1 of each year:

(1) the agency shall notify a district to which this section applies of the applicability of this section to the district unless the district is operating under a plan required by this section; and

(2) the coordinating board shall notify each public institution of higher education in this state in closest geographic proximity to a district to which this section applies of the applicability of this section to the district unless the district is operating under a plan required by this section.

(c) Except as otherwise provided by this subsection, not later than August 1 of the year in which a school district receives notice under Subsection (b), the district shall enter into an agreement with the public institution of higher education in this state in closest geographic proximity to the district to develop a plan to increase the percentage of the district's graduating seniors who enroll in an institution of higher education for the academic year following graduation. The public institution of higher education in this state in closest geographic proximity to the district shall enter into an agreement under this subsection unless that institution of higher education or the district recruits another public institution of higher education in this state to enter into that agreement. A district and the public institution of higher education entering into the agreement with the district may also enter into an agreement with one or more other public institutions of higher education in this state to participate in developing the plan.

(d) A plan developed under this section:

(1) must establish clear, achievable goals for increasing the percentage of the school district's graduating seniors, particularly the graduating seniors attending a high school described by Subsection (a), who enroll in an institution of higher education for the academic year following graduation;

(2) must establish an accurate method of measuring progress toward the goals established under Subdivision (1) that may include the percentage of district high school students and the percentage of students attending a district high school described by Subsection (a) who:

(A) are enrolled in a course for which a student may earn college credit, such as an advanced placement or international baccalaureate course or a course offered through concurrent enrollment in high school and at an institution of higher education;

(B) are enrolled in courses that meet the curriculum requirements for the distinguished level of achievement under the foundation high school program as determined under Section 28.025;

(C) have submitted a free application for federal student aid (FAFSA);

(D) are exempt under Section 51.3062(p) or (q) from administration of an assessment instrument under Section 51.3062 or have performed successfully on an assessment instrument under Section 51.3062;

(E) graduate from high school;

(F) graduate from an institution of higher education; and

(G) have taken college entrance examinations and the average score of those students on the examinations;

(3) must cover a period of at least five years; and

(4) may be directed at district students at any level of primary or secondary education.

(e) A school district shall file the plan with the commissioner of education and the commissioner of higher education.

(f) A school district must implement the plan at the beginning of the school year following the year during which the district receives notice under Subsection (b).

(g) A school district may revise the plan as necessary in response to achieving or failing to achieve goals under the plan.

(Enacted by Acts 2001, 77th Leg., ch. 795 (H.B. 400), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(16), effective September 1, 2003 (renumbered from Sec. 29.903); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 43, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 25(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 25(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 29.905. Community Education Relating to Hate Crime Law.

(a) The attorney general, in cooperation with the agency, shall develop a program that provides instruction about state laws on hate crimes:

(1) at appropriate grade levels, to students; and

(2) to the community at large.

(b) The agency shall make the program available to a school on the request of the board of trustees or the school district of which the school is a part, or if the school is an open-enrollment charter school, on the request of the governing body of the school.

(Enacted by Acts 2001, 77th Leg., ch. 85 (H.B. 587), art. 6, § 6.01, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(17), effective September 1, 2003 (renumbered from Sec. 29.903).)

Sec. 29.906. Character Education Program.

(a) A school district may provide a character education program.

(b) A character education program under this section must:

(1) stress positive character traits, such as:

(A) courage;

(B) trustworthiness, including honesty, reliability, punctuality, and loyalty;

(C) integrity;

(D) respect and courtesy;

(E) responsibility, including accountability, diligence, perseverance, and self-control;

(F) fairness, including justice and freedom from prejudice;

(G) caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;

(H) good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law; and

(I) school pride;

(2) use integrated teaching strategies; and

(3) be age appropriate.

(c) In developing or selecting a character education program under this section, a school district shall consult with a committee selected by the district that consists of:

(1) parents of district students;

(2) educators; and

(3) other members of the community, including community leaders.

(d) This section does not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

(e) The agency shall:

(1) maintain a list of character education programs that school districts have implemented that meet the criteria under Subsection (b);

(2) based on data reported by districts, annually designate as a Character Plus School each school that provides a character education program that:

(A) meets the criteria prescribed by Subsection (b); and

(B) is approved by the committee selected under Subsection (c); and

(3) include in the report required under Section 39.332:

(A) based on data reported by districts, the impact of character education programs on student discipline and academic achievement; and

(B) other reported data relating to character education programs the agency considers appropriate for inclusion.

(f) The agency may accept money from federal government and private sources to use in assisting school districts in implementing character education programs that meet the criteria prescribed by Subsection (b).

(Enacted by Acts 2001, 77th Leg., ch. 478 (H.B. 946), § 1, effective June 11, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(18), effective September 1, 2003 (renumbered from Sec. 29.903); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 44, effective June 19, 2009.)

Sec. 29.907. Celebrate Freedom Week.

(a) To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which September 17 falls is designated as Celebrate Freedom Week in public schools. For purposes of this subsection, Sunday is considered the first day of the week.

(b) The agency, in cooperation with other state agencies who voluntarily participate, may promote

Celebrate Freedom Week through a coordinated program. Nothing in this subsection shall give any other state agency the authority to develop a program that provides instruction unless funds are specifically appropriated to that agency for that purpose.

(Enacted by Acts 2001, 77th Leg., ch. 451 (H.B. 1776), § 1, effective June 7, 2001; am. Acts 2003, 78th Leg., ch. 594 (H.B. 1776), § 1, effective June 20, 2003 (renumbered from Sec. 29.903); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.0031, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 40 (H.B. 708), § 1, effective May 8, 2007.)

Sec. 29.908. Early College Education Program.

(a) The commissioner shall establish and administer an early college education program for students who are at risk of dropping out of school or who wish to accelerate completion of the high school program. For purposes of this subsection, "student at risk of dropping out of school" has the meaning assigned by Section 29.081.

(b) The program must:

(1) provide for a course of study that enables a participating student to combine high school courses and college-level courses during grade levels 9 through 12;

(2) allow a participating student to complete high school and, on or before the fifth anniversary of the date of the student's first day of high school, receive a high school diploma and either:

(A) an associate degree; or

(B) at least 60 semester credit hours toward a baccalaureate degree;

(3) include articulation agreements with colleges, universities, and technical schools in this state to provide a participating student access to postsecondary educational and training opportunities at a college, university, or technical school; and

(4) provide a participating student flexibility in class scheduling and academic mentoring.

(b-1) Each articulation agreement under Subsection (b)(3) must address:

(1) curriculum alignment;

(2) instructional materials;

(3) the instructional calendar;

(4) courses of study;

(5) eligibility of students for higher education financial assistance;

(6) student enrollment and attendance;

(7) grading periods and policies; and

(8) administration of statewide assessment instruments under Subchapter B, Chapter 39.

(b-2) The P-16 Council established under Section 61.076 shall provide guidance in case of any conflict that arises between parties to an articulation agreement under Subsection (b)(3).

(c) A student participating in the program is entitled to the benefits of the Foundation School Program in proportion to the amount of time spent by the student on high school courses, in accordance with rules adopted by the commissioner, while completing the course of study established by the applicable articulation agreement under Subsection (b)(3).

(d) The commissioner may accept gifts, grants, and donations from any source, including private and nonprofit organizations. Private and nonprofit organizations that contribute to the fund shall receive an award under Section 7.113.

(e) The commissioner shall collaborate with the Texas Workforce Commission and the Texas Higher Education Coordinating Board to develop and implement a strategic plan to enhance private industry participation under this section. The plan must include:

(1) strategies to increase private industry participation; and

(2) incentives for businesses and nonprofit organizations that choose to make donations and work with high schools that participate in a program under this section to maximize job placement opportunities for program graduates.

(f) Not later than December 1, 2014, the commissioner shall provide a report that summarizes the strategic plan developed under Subsection (e) to the lieutenant governor, the speaker of the house of representatives, the governor, the Texas Workforce Commission, and the Texas Higher Education Coordinating Board. The Texas Education Agency, the Texas Workforce Commission, and the Texas Higher Education Coordinating Board shall each make the report available on the respective agency's Internet website.

(g) The commissioner may adopt rules as necessary to administer the program. The rules may provide for giving preference in receiving program benefits to a student who is in the first generation of the student's family to attend college and may establish other distinctions or criteria based on student need. The commissioner shall consult the Texas Higher Education Coordinating Board in administering the program. The Texas Higher Education Coordinating Board may adopt rules as necessary to exercise its powers and duties under this section. The P-16 Council may make recommendations, including recommendations for rules, concerning administration of the program.

(Enacted by Acts 2003, 78th Leg., ch. 1201 (S.B. 976), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 879 (S.B. 1146), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.006, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1220 (S.B. 1557), § 1, effective September 1, 2013.)

Sec. 29.909. Distance Learning Courses.

(a) A school district or open-enrollment charter school that provides a course through distance learning and seeks to inform other districts or schools of the availability of the course may submit information to the agency regarding the course, including the number of positions available for student enrollment in the course. The district or school may submit updated information at the beginning of each semester.

(b) The agency shall make information submitted under this section available on the agency's Internet website.

(c) The commissioner may adopt rules necessary to implement this section, including rules governing student enrollment. The commissioner may not adopt rules governing course pricing, and the price for a course shall be determined by the school districts or open-enrollment charter schools involved.

(Enacted by Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 29.910. Programs of Mutual Benefit.

(a) The commissioner, in coordination with appropriate representatives of institutions of higher education and school districts, shall develop:

(1) a diagnostic and assistance program for each subject assessed by an assessment instrument under Section 39.023(c); and

(2) other academic programs of mutual benefit to school districts and institutions of higher education.

(b) The commissioner shall seek private funding to make available and maintain on the Internet each diagnostic and assistance program developed under Subsection (a)(1).

(Enacted by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 10, effective June 20, 2003.)

Sec. 29.911. Generation Texas Week.

(a) To educate middle school, junior high school, and high school students about the importance of higher education, each school district and each open-enrollment charter school offering any of those grade levels shall designate one week during the school year as Generation Texas Week.

(b) During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

(1) higher education options available to students;

(2) standard admission requirements for institutions of higher education, including:

(A) overall high school grade point average;

(B) required curriculum;

(C) college readiness standards and expectations as determined under Section 28.008; and

(D) scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

(3) automatic admission of certain students to general academic teaching institutions as provided by Section 51.803; and

(4) financial aid availability and requirements, including the financial aid information provided by school counselors under Section 33.007(b).

(c) In addition to the information provided under Subsection (b), each middle school, junior high school, and high school shall provide to the students during the designated week at least one public speaker to promote the importance of higher education.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 12, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1033 (H.B. 2909), §§ 1, 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 23, effective June 14, 2013.)

Sec. 29.915. Financial Literacy Pilot Program.

(a) In this section, "program" means the financial literacy pilot program.

(b) To the extent funding is available under Subsection (e), the agency by rule shall establish and implement a financial literacy pilot program to provide students in participating school districts with the knowledge and skills necessary as self-supporting adults to make critical decisions relating to personal financial matters.

(c) The agency shall collaborate with the Office of Consumer Credit Commissioner and the State Securities Board to develop the curriculum and instructional materials for the program. The curriculum

and instructional materials must include information about:

(1) avoiding and eliminating credit card debt;

(2) understanding the rights and responsibilities of renting or buying a home;

(3) managing money to make the transition from renting a home to home ownership;

(4) starting a small business;

(5) being a prudent investor in the stock market and using other investment options;

(6) beginning a savings program;

(7) bankruptcy;

(8) the types of bank accounts available to consumers and the benefits of maintaining a bank account;

(9) balancing a check book;

(10) the types of loans available to consumers and becoming a low-risk borrower; and

(11) the use of insurance as a means of protecting against financial risk.

(d) The agency shall develop an application and selection process for selecting school districts to participate in the program. The agency may select not more than 100 school districts to participate in the program.

(e) The agency may solicit and accept a gift, grant, or donation from any source, including a foundation, private entity, governmental entity, or institution of higher education, for the implementation of the program. The program may be implemented only if sufficient funds are available under this subsection for that purpose.

(f) [Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 23, effective February 1, 2011.]

(Enacted by Acts 2005, 79th Leg., ch. 832 (S.B. 851), § 1, effective June 17, 2005; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 23, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1221 (S.B. 1590), § 2, effective June 14, 2013.)

Sec. 29.916. Home-Schooled Student Merit Scholarship and Advanced Placement Testing.

(a) In this section:

(1) "Home-schooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

(2) "PSAT/NMSQT" means the Preliminary SAT/National Merit Scholarship Qualifying Test sponsored by the College Board and Educational Testing Service and the National Merit Scholarship Corporation.

(b) A school district shall permit a home-schooled student entitled under Section 25.001 to attend public school in the district to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the district. A school district shall require a home-schooled student to pay the same fee to participate in a test under this subsection that a student enrolled in the district is required to pay.

(c) A school district shall post on an Internet website maintained by the district the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice required under this subsection must state that the PSAT/NMSQT or the advanced placement test is available for home-schooled students eligible to attend school in the district and describe the procedures for a home-schooled student to register for the test. A school district that does not maintain an Internet website must publish the information required by this subsection in a newspaper in the district. If a newspaper is not published in the school district, the district shall provide for the publication of notice in at least one newspaper in the county in which the district's central administrative office is located. The information required under this subsection must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a district school.

(d) The commissioner may adopt rules as necessary to implement this section.

(Enacted by Acts 2007, 80th Leg., ch. 1211 (H.B. 1844), § 1, effective June 15, 2007.)

Sec. 29.917. Higher Education and Workforce Readiness Programs.

(a) From funds appropriated for the purpose, the commissioner may award grants to organizations that provide volunteers to teach classroom or after-school programs to enhance:

(1) college readiness;

(2) workforce readiness;

(3) dropout prevention; or

(4) personal financial literacy.

(b) To implement or administer a program under this section, the commissioner may accept gifts, grants, and donations from public or private entities.

(c) The commissioner may conduct a study of the programs under this section to determine the success of the programs in preparing students for higher education and participation in the workforce.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 12, effective June 15, 2007.)

Sec. 29.918. Dropout Prevention Strategies.

(a) Notwithstanding Section 39.234 or 42.152, a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, must submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152 and the high school allotment under Section 42.160 for developing and implementing research-based strategies for dropout prevention. The district or charter school shall submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment or high school allotment to which the plan applies.

(b) A school district or open-enrollment charter school to which this section applies may not spend or obligate more than 25 percent of the district's or charter school's compensatory education allotment or high school allotment unless the commissioner approves the plan submitted under Subsection (a). The commissioner shall complete an initial review of the district's or charter school's plan not later than March 1 of the school year preceding the school year in which the district or charter school will receive the compensatory education allotment or high school allotment to which the plan applies.

(c) The commissioner shall adopt rules to administer this section. The commissioner may impose interventions or sanctions under Section 39.102 or 39.104 if a school district or open-enrollment charter school fails to timely comply with this section.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 12, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 45, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 24, effective September 1, 2009.)

Sec. 29.919. Technology-Based Supplemental Instruction Pilot Program [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 25, effective September 1, 2011.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 12, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1257 (H.B. 2864), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 25, effective September 1, 2009.)

Sec. 29.920. Winter Celebrations.

(a) A school district may educate students about the history of traditional winter celebrations, and allow students and district staff to offer traditional greetings regarding the celebrations, including:

(1) "Merry Christmas";

(2) "Happy Hanukkah"; and

(3) "happy holidays."

(b) Except as provided by Subsection (c), a school district may display on school property scenes or symbols associated with traditional winter celebrations, including a menorah or a Christmas image such as a nativity scene or Christmas tree, if the display includes a scene or symbol of:

(1) more than one religion; or

(2) one religion and at least one secular scene or symbol.

(c) A display relating to a traditional winter celebration may not include a message that encourages adherence to a particular religious belief.

(Enacted by Acts 2013, 83rd Leg., ch. 236 (H.B. 308), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 236 (H.B. 308), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 29.922. Texas Workforce Innovation Needs Program.

(a) In this section:

(1) "Private or independent institution of higher education" has the meaning assigned by Section 61.003.

(2) "Program" means the Texas Workforce Innovation Needs Program.

(b) The Texas Workforce Innovation Needs Program is established to:

(1) provide selected school districts, public institutions of higher education, and private or independent institutions of higher education with the opportunity to establish innovative programs designed to prepare students for careers for which there is demand in this state; and

(2) use the results of those programs to inform the governor, legislature, and commissioner concerning methods for transforming public education and higher education in this state by improving student learning and career preparedness.

(c) To apply to participate in the program, a school district, public institution of higher education, or private or independent institution of higher education must use the form and apply in the time and manner established by commissioner rule. The application process must require each applicant district or institution of higher education to submit a detailed plan as required by Subsections (d) and (e) of the instruction and accountability the applicant would provide under the program.

(d) A plan submitted under Subsection (c):

(1) must:

(A) be designed to support improved instruction of and learning by students and provide evidence of the accurate assessment of the quality of learning on campus;

(B) describe any waiver of an applicable prohibition, requirement, or restriction for which the district or institution of higher education intends to apply; and

(C) include any other information required by commissioner rule; and

(2) may, if submitted by a school district, designate one or more campuses rather than the entire district to participate in the program.

(e) In addition to satisfying the requirements under Subsection (d)(1), a plan submitted under Subsection (c) must, to the greatest extent appropriate for the grade or higher education levels served under the program, either:

(1) focus on engagement of students in competency-based learning as necessary to earn postsecondary credentials, including:

(A) career and technical certificates;

(B) associate's degrees;

(C) bachelor's degrees; and

(D) graduate degrees; or

(2) incorporate career and technical courses into dual enrollment courses or into the early college education program under Section 29.908 to provide students the opportunity to earn a career or technical certificate or associate's degree.

(f) From among the school districts and institutions of higher education that apply as required under this section, the commissioner shall select those school districts and institutions of higher education that present the plans that are most likely to be effective in producing the next generation of higher performing public schools and institutions of higher education that provide education and training in an innovative form and manner to prepare students for careers for which there is demand in this state.

(g) The commissioner shall convene program leaders periodically to discuss methods to transform learning opportunities for all students, build cross-institution support systems and training, and share best practices tools and processes.

(h) A school district or institution of higher education participating in the program or the commissioner may, for purposes of this section, accept gifts, grants, or donations from any source, including a private or governmental entity.

(i) To cover the costs of administering the program, the commissioner may charge a fee to a school district or institution of higher education participating in the program.

(j) In consultation with interested school districts, institutions of higher education, and other appropriate interested persons, the commissioner shall adopt rules as necessary for purposes of this section.

(k) **[Expires January 1, 2020]** Not later than December 1, 2014, and not later than December 1, 2016, with the assistance of school districts and institutions of higher education participating in the program, the commissioner shall submit to the governor and the legislature reports concerning the performance and progress of the program participants. The report submitted not later than December 1, 2014, must include any recommendation by the commissioner concerning legislative authorization necessary for the commissioner to waive a prohibition, requirement, or restriction that applies to a program participant and other school district or institution of higher education interested in beginning a similar program. To prepare for implementation of a commissioner waiver, the commissioner shall seek any necessary federal waiver. This subsection expires January 1, 2020.

(Enacted by Acts 2013, 83rd Leg., ch. 215 (H.B. 3662), § 1, effective June 10, 2013.)

CHAPTER 30
STATE AND REGIONAL PROGRAMS AND SERVICES

Subchapter A. General Provisions

Subchapter B. Texas School for the Blind and Visually Impaired

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 30.001. Coordination of Services to Children with Disabilities.

(a) In this section, "children with disabilities" means students eligible to participate in a school district's special education program under Section 29.003.

(b) The commissioner, with the approval of the State Board of Education, shall develop and implement a plan for the coordination of services to children with disabilities in each region served by a regional education service center. The plan must include procedures for:

(1) identifying existing public or private educational and related services for children with disabilities in each region;

(2) identifying and referring children with disabilities who cannot be appropriately served by the school district in which they reside to other appropriate programs;

(3) assisting school districts to individually or cooperatively develop programs to identify and provide appropriate services for children with disabilities;

(4) expanding and coordinating services provided by regional education service centers for children with disabilities; and

(5) providing for special services, including special seats, books, instructional media, and other supplemental supplies and services required for proper instruction.

(c) The commissioner may allocate appropriated funds to regional education service centers or may otherwise spend those funds, as necessary, to implement this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.0015. Transfer of Assistive Technology Devices.

(a) In this section:

(1) "Assistive technology device" means any device, including equipment or a product system, that is used to increase, maintain, or improve functional capabilities of a student with a disability.

(2) "Student with a disability" means a student who is eligible to participate in a school district's special education program under Section 29.003.

(3) "Transfer" means the process by which a school district that has purchased an assistive technology device may sell, lease, or loan the device for the continuing use of a student with a disability changing the school of attendance in the district or leaving the district.

(b) The agency by rule shall develop and annually disseminate standards for a school district's transfer of an assistive technology device to an entity listed in this subsection when a student with a disability using the device changes the school of attendance in the district or ceases to attend school in the district that purchased the device and the student's parents, or the student if the student has the legal capacity to enter into a contract, agrees to the transfer. The device may be transferred to:

(1) the school or school district in which the student enrolls;

(2) a state agency, including the Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation, that provides services to the student following the student's graduation from high school; or

(3) the student's parents, or the student if the student has the legal capacity to enter into a contract.

(c) The standards developed under this section must include:

(1) a uniform transfer agreement to convey title to an assistive technology device and applicable warranty information;

(2) a method for computing the fair market value of an assistive technology device, including a reasonable allowance for use; and

(3) a process to obtain written consent by the student's parents, or the student where appropriate, to the transfer.

(d) This section does not alter any existing obligation under federal or state law to provide assistive technology devices to students with disabilities.

(Enacted by Acts 1999, 76th Leg., ch. 682 (H.B. 633), § 1, effective June 18, 1999.)

Sec. 30.002. Education for Children with Visual Impairments.

(a) The agency shall develop and administer a comprehensive statewide plan for the education of children with visual impairments who are under 21 years of age that will ensure that the children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.

(b) The agency shall:

(1) develop standards and guidelines for all special education services for children with visual impairments that it is authorized to provide or support under this code;

(2) supervise regional education service centers and other entities in assisting school districts in serving children with visual impairments more effectively;

(3) develop and administer special education services for students with both serious visual and auditory impairments;

(4) evaluate special education services provided for children with visual impairments by school districts and approve or disapprove state funding of those services; and

(5) maintain an effective liaison between special education programs provided for children with visual impairments by school districts and related initiatives of the Department of Assistive and Rehabilitative Services Division for Blind Services, the Department of State Health Services Mental Health and Substance Abuse Division, the Texas School for the Blind and Visually Impaired, and other related programs, agencies, or facilities as appropriate.

(c) The comprehensive statewide plan for the education of children with visual impairments must:

(1) adequately provide for comprehensive diagnosis and evaluation of each school-age child with a serious visual impairment;

(2) include the procedures, format, and content of the individualized education program for each child with a visual impairment;

(3) emphasize providing educational services to children with visual impairments in their home communities whenever possible;

(4) include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement:

(A) evaluation of the impairment; and

(B) instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in:

(i) compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;

(ii) orientation and mobility;

(iii) social interaction skills;

(iv) career planning;

(v) assistive technology, including optical devices;

(vi) independent living skills;

(vii) recreation and leisure enjoyment;

(viii) self-determination; and

(ix) sensory efficiency;

(5) provide for flexibility on the part of school districts to meet the special needs of children with visual impairments through:

(A) specialty staff and resources provided by the district;

(B) contractual arrangements with other qualified public or private agencies;

(C) supportive assistance from regional education service centers or adjacent school districts;

(D) short-term or long-term services through the Texas School for the Blind and Visually Impaired or related facilities or programs; or

(E) other instructional and service arrangements approved by the agency;

(6) include a statewide admission, review, and dismissal process;

(7) provide for effective interaction between the visually impaired child's classroom setting and the child's home environment, including providing for parental training and counseling either by school district staff or by representatives of other organizations directly involved in the development and implementation of the individualized education program for the child;

(8) require the continuing education and professional development of school district staff providing special education services to children with visual impairments;

(9) provide for adequate monitoring and precise evaluation of special education services provided

to children with visual impairments through school districts; and

(10) require that school districts providing special education services to children with visual impairments develop procedures for assuring that staff assigned to work with the children have prompt and effective access directly to resources available through:

(A) cooperating agencies in the area;

(B) the Texas School for the Blind and Visually Impaired;

(C) the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments;

(D) sheltered workshops participating in the state program of purchases of blind-made goods and services; and

(E) related sources.

(c-1) To implement Subsection (c)(1) and to determine a child's eligibility for a school district's special education program on the basis of a visual impairment, the full individual and initial evaluation of the student required by Section 29.004 must, in accordance with commissioner rule:

(1) include an orientation and mobility evaluation conducted:

(A) by a person who is appropriately certified as an orientation and mobility specialist, as determined under commissioner rule; and

(B) in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student; and

(2) provide for a person who is appropriately certified as an orientation and mobility specialist to participate, as part of a multidisciplinary team, in evaluating data on which the determination of the child's eligibility is based.

(c-2) The scope of any reevaluation by a school district of a student who has been determined, after the full individual and initial evaluation, to be eligible for the district's special education program on the basis of a visual impairment shall be determined, in accordance with 34 C.F.R. Sections 300.122 and 300.303 through 300.311, by a multidisciplinary team that includes, as provided by commissioner rule, a person described by Subsection (c-1)(1)(A).

(d) In developing, administering, and coordinating the statewide plan, the agency shall encourage the use of all pertinent resources, whether those resources exist in special education programs or in closely related programs operated by other public or private agencies, through encouraging the development of shared services arrangement working relationships and by assisting in the development of contractual arrangements between school districts and other organizations. The agency shall discourage interagency competition, overlap, and duplication in the development of specialized resources and the delivery of services.

(e) Each eligible blind or visually impaired student is entitled to receive educational programs according to an individualized education program that:

(1) is developed in accordance with federal and state requirements for providing special education services;

(2) is developed by a committee composed as required by federal law;

(3) reflects that the student has been provided a detailed explanation of the various service resources available to the student in the community and throughout the state;

(4) provides a detailed description of the arrangements made to provide the student with the evaluation and instruction required under Subsection (c)(4); and

(5) sets forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the instruction required under Subsection (c)(4)(B).

(f) In the development of the individualized education program for a functionally blind student, proficiency in braille reading and writing is presumed to be essential for the student's satisfactory educational progress. Each functionally blind student is entitled to braille reading and writing instruction that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability who are at the same grade level. Braille instruction may be used in combination with other special education services appropriate to the student's educational needs. The assessment of each functionally blind student for the purpose of developing the student's individualized education program must include documentation of the student's strengths and weaknesses in braille skills. Each person assisting in the development of a functionally blind student's individualized education program shall receive information describing the benefits of braille instruction. Each functionally blind student's individualized education program must specify the appropriate learning medium based on the assessment report and ensure that instruction in braille will be provided by a teacher certified to teach students with visual impairments. For purposes of this subsection, the agency shall determine the criteria for a student to be classified as functionally blind.

(g) To facilitate implementation of this section, the commissioner shall develop a system to distribute from the foundation school fund to school districts or regional education service centers a special supplemental allowance for each student with a visual impairment and for each student with a serious visual disability and another medically diagnosed disability of a significantly limiting nature who is receiving special education services through any approved program. The supplemental allowance may be spent only for special services uniquely required by the nature of the student's disabilities and may not be used in lieu of educational funds otherwise available under this code or through state or local appropriations.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 505 (S.B. 39), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 637 (H.B. 590), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 505 (S.B. 39), § 2 provides: "Subsection (e), Section 30.002, Education Code, as amended by this Act, applies beginning with the 2013-2014 school year."

Sec. 30.003. Support of Students Enrolled in Texas School for the Blind and Visually Impaired or Texas School for the Deaf.

(a) For each student enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf, the school district that is responsible for providing appropriate special education services to the student shall share the cost of the student's education as provided by this section.

(b) If the student is admitted to the school for a full-time program for the equivalent of two long semesters, the district's share of the cost is an amount equal to the dollar amount of maintenance and debt service taxes imposed by the district for that year divided by the district's average daily attendance for the preceding year.

(c) If the student is admitted for a program less than two complete semesters in duration, other than a summer program, the district's share of the cost is an amount equal to the amount that would be the district's share under Subsection (b) for a full-time program multiplied by the quotient resulting from the number of full-time equivalent days in the program divided by the minimum number of days of instruction for students as provided by Section 25.081.

(d) Each school district and state institution shall provide to the commissioner the necessary information to determine the district's share under this section. The information must be reported to the commissioner on or before a date set by rule of the State Board of Education. After determining the amount of a district's share for all students for which the district is responsible, the commissioner shall deduct that amount from the payments of foundation school funds payable to the district. Each deduction shall be in the same percentage of the total amount of the district's share as the percentage of the total foundation school fund entitlement being paid to the district at the time of the deduction, except that the amount of any deduction may be modified to make necessary adjustments or to correct errors. The commissioner shall provide for remitting the amount deducted to the appropriate school at the same time at which the remaining funds are distributed to the district. If a district does not receive foundation school funds or if a district's foundation school entitlement is less than the amount of the district's share under this section, the commissioner shall direct the district to remit payment to the commissioner, and the commissioner shall remit the district's share to the appropriate school.

(e) For each student enrolled in the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf, the appropriate school is entitled to the state available school fund apportionment.

(f) The commissioner, with the assistance of the comptroller, shall determine the amount that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf would have received from the available school fund if Chapter 28, Acts of the 68th Legislature, 2nd Called Session, 1984, had not transferred statutorily dedicated taxes from the available school fund to the foundation school fund. That amount, minus any amount the schools do receive from the available school fund, shall be set apart as a separate account in the foundation school fund and appropriated to those schools for educational purposes.

(f-1) The commissioner shall determine the total amount that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf would have received from school districts in accordance with this section if H.B. No. 1, Acts of the 79th Legislature, 3rd Called Session, 2006, had not reduced the districts' share of the cost of providing education services. That amount, minus any amount the schools do receive from school districts, shall be set aside as a separate account in the foundation school fund and appropriated to those schools for educational purposes.

(g) The State Board of Education may adopt rules as necessary to implement this section.

(h) [Expired pursuant to Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 6, effective September 1, 1999.] (Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 6, effective September 1, 1997; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.10, effective May 31, 2006.)

Sec. 30.004. Information Concerning Programs.

(a) Each school district shall provide each parent or other person having lawful control of a student with written information about:

(1) the availability of programs offered by state institutions for which the district's students may be eligible;

(2) the eligibility requirements and admission conditions imposed by each of those state institutions; and

(3) the rights of students in regard to admission to those state institutions and in regard to appeal of admission decisions.

(b) The State Board of Education shall adopt rules prescribing the form and content of information required by Subsection (a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.005. Texas School for the Blind and Visually Impaired Memorandum of Understanding.

The Texas Education Agency and the Texas School for the Blind and Visually Impaired shall develop, agree to, and by commissioner rule adopt a memorandum of understanding to establish:

(1) the method for developing and reevaluating a set of indicators of the quality of learning at the Texas School for the Blind and Visually Impaired;

(2) the process for the agency to conduct and report on an annual evaluation of the school's performance on the indicators;

(3) the requirements for the school's board to publish, discuss, and disseminate an annual report describing the educational performance of the school;

(4) the process for the agency to:

(A) assign an accreditation status to the school;

(B) reevaluate the status on an annual basis; and

(C) if necessary, make on-site accreditation investigations; and

(5) the type of information the school shall be required to provide through the Public Education Information Management System (PEIMS).

(Enacted by Acts 1997, 75th Leg., ch. 1341 (S.B. 1919), § 5, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 679 (S.B. 188), § 1, effective June 17, 2005.)

SUBCHAPTER B
TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED

Sec. 30.021. Purpose of Texas School for the Blind and Visually Impaired.

(a) The Texas School for the Blind and Visually Impaired is a state agency established to serve as a special school in the continuum of statewide alternative placements for students who are 21 years of age or younger on September 1 of any school year and who have a visual impairment and who may have one or more other disabilities. The school is intended to serve students who require specialized or intensive educational or related services related to the visual impairment. The school is not intended to serve:

(1) students whose needs are appropriately addressed in a home or hospital setting or in a residential treatment facility; or

(2) students whose primary, ongoing needs are related to a severe or profound emotional, behavioral, or cognitive deficit.

(b) The school district in which a student resides is responsible for assuring that a free appropriate public education is provided to each district student placed in the regular school year program of the school and that all legally required meetings for the purpose of developing and reviewing the student's individualized educational program are conducted. If the school disagrees with a district's individualized education program committee recommendation that a student be evaluated for placement, initially placed, or continued to be placed at the school, the district or the school may seek resolution according to a procedure established by the commissioner or through any due process hearing to which the district or school is entitled under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(c) The school shall conduct supplemental programs, such as summer programs and student exchange programs, and shall consider information from sources throughout the state regarding the nature of those programs and students to be served.

(d) The school shall provide statewide services to parents of students with visual impairments, school districts, regional education service centers, and other agencies serving students with visual impairments, including students who have one or more

disabilities in addition to the visual impairment, such as students who are deaf-blind. Those services must include:

(1) developing and providing local, regional, and statewide training for parents of students with visual impairments and professionals who work with persons with visual impairments;

(2) providing consultation and technical assistance to parents and professionals related to special education and related services for students;

(3) developing and disseminating reference materials including materials in the areas of curriculum, instructional methodology, and educational technology;

(4) providing information related to library resources, adapted materials, current research, technology resources, and teaching, assessment, and transition of students with visual impairments;

(5) operating programs for lending educational and technological materials to school districts and regional education service centers; and

(6) facilitating the preparation of teachers for visually impaired students by providing assistance to colleges and universities as well as other teacher preparation programs.

(e) The school shall cooperate with public and private agencies and organizations serving students and other persons with visual impairments in the planning, development, and implementation of effective educational and rehabilitative service delivery systems associated with educating students with visual impairments. To maximize and make efficient use of state facilities, funding, and resources, the services provided in this area may include conducting a cooperative program with other agencies to serve students who have graduated from high school by completing all academic requirements applicable to students in regular education, excluding satisfactory performance under Section 39.025, who are younger than 22 years of age on September 1 of the school year and who have identified needs related to vocational training, independent living skills, orientation and mobility, social and leisure skills, compensatory skills, or remedial academic skills.

(f) The school may operate an on-campus canteen to offer food service at mealtimes and during other times of the day.

(g) If a school district or another educational entity requests an assessment of a student's educational or related needs related to visual impairment, the school may conduct an assessment and charge a reasonable fee for the assessment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1341 (S.B. 1919), § 1, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 680 (S.B. 189), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 6, effective September 1, 2007.)

Sec. 30.022. Governance of the Texas School for the Blind and Visually Impaired.

(a) The Texas School for the Blind and Visually Impaired is governed by a nine-member board appointed by the governor in accordance with this section and confirmed by the senate. A person may not serve simultaneously on the school's governing board and the board of the Texas Commission for the Blind. The board shall be composed of:

(1) three members who are blind or visually impaired, at least one of whom has received educational services related to the blindness or visual impairment;

(2) three members who are working or have worked as professionals in the field of delivering services to persons who are blind or visually impaired; and

(3) three members, each of whom is the parent of a child who is blind or visually impaired, and at least one of whom is the parent of a child who, at the time of the parent's appointment, is receiving educational services related to the blindness or visual impairment.

(b) Members of the board serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

(c) Members of the board serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) The board shall organize and conduct itself in the same manner as an independent school district board of trustees to the extent that the organization and conduct do not conflict with the board's responsibilities relating to the status of the school as a state agency.

(e) The board shall prepare or provide for preparation of a biennial budget request for the school for presentation to the legislature.

(f) Before the beginning of each fiscal year, the board shall adopt a calendar for the school's operation that provides for at least:

(1) the minimum number of days of instruction required by Section 25.081; and

(2) the minimum number of days of service required by Section 21.401.

(g) Except as otherwise provided by this subsection, an action of the board may be appealed to a district court in Travis County. An action of the board related to a dismissal during the term of a

teacher's contract or to a nonrenewal of a teacher's contract may be appealed to the commissioner in the manner prescribed by Subchapter G, Chapter 21. For the purposes of this subsection, the term "teacher" has the meaning assigned by Section 30.024(a).

(h) Except as provided by Subsection (h-1), the board has jurisdiction over the physical assets of the school and shall administer and spend appropriations made for the benefit of the school.

(h-1) The Texas Facilities Commission shall provide facilities maintenance services for the physical facilities of the school, including facilities construction, cabling, facility reconfiguration, and any other services as provided by a memorandum of understanding between the board and the Texas Facilities Commission.

(i) The board may accept and retain control of gifts, devises, bequests, donations, or grants, either absolutely or in trust, of money, securities, personal property, and real property from any individual, estate, group, association, or corporation. The funds or other property donated or the income from the property may be spent by the board for:

(1) any purpose designated by the donor that is in keeping with the lawful purpose of the school; or

(2) any legal purpose, if a specific purpose is not designated by the donor.

(j) The board may license some or all of the physical facilities of the school and shall adopt policies implementing this subsection which may include establishing a fee schedule for lease of the facilities to the following persons under the following conditions:

(1) any organization, group, or individual for the prevailing market rate; or

(2) a federal or state agency, a unit of local government, a nonprofit organization, a school employee, or an individual member of the general public for less than the prevailing market rate if the board determines that sufficient public benefit will be derived from the use.

(k) A license issued by the board under Subsection (j) is subject to termination on sale or lease of the affected facility under Chapter 672, Acts of the 71st Legislature, Regular Session, 1989 (Article 5421t, Vernon's Texas Civil Statutes), and Subchapter E, Chapter 31, Natural Resources Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1341 (S.B. 1919), § 2, effective September 1, 1997; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1358 (S.B. 1457), § 1, effective September 1, 2013.)

Sec. 30.023. Superintendent of the Texas School for the Blind and Visually Impaired.

(a) The superintendent of the Texas School for the Blind and Visually Impaired is appointed by the governing board of the school.

(b) To be eligible to be appointed and serve as superintendent a person must:

(1) hold an advanced degree;

(2) have training and experience in the education of students with visual impairments and in the administration of a program serving students with visual impairments; and

(3) satisfy any other requirement the board establishes.

(c) The superintendent may reside at the school.

(d) The board shall annually establish the superintendent's salary. The annual salary may not exceed 120 percent of the annual salary of the highest paid instructional administrator at the school.

(e) The superintendent is the chief administrative officer of the school. The superintendent shall take any necessary and appropriate action to carry out the functions and purposes of the school according to any general policy the board prescribes.

(f) At least once each quarter, the superintendent shall report to the board concerning the superintendent's activities, progress in implementing any general policy prescribed by the board, any exceptional matter relating to the program, general statistical summaries of services provided by the school during the period covered by the report, budget matters of major consequence or concern, and any additional matter the board requests to be specifically included in the report.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 680 (S.B. 189), § 2, effective June 17, 2005.)

Sec. 30.024. Employees of the Texas School for the Blind and Visually Impaired.

(a) In this section, "teacher" means a principal, supervisor, classroom teacher, school counselor, or other full-time professional employee who is required to hold a certificate issued under Subchapter B, Chapter 21, except the term does not include a superintendent or any employee who does not provide direct and regular services to students at the school.

(b) The governing board of the school may enter into an employment contract with any employee who provides, or supervises any employee who provides, direct and regular educational services to students or who provides other professional educational services. An employee employed under this subsection

is not subject to Section 2252.901, Government Code. Each teacher shall be employed under a term contract as provided by Subchapter E, Chapter 21, or under a probationary contract as provided by Subchapter C, Chapter 21. An employee employed under a contract under this subsection:

(1) shall be paid in accordance with a salary structure adopted by the superintendent with the concurrence of the board that provides salaries, including assignment stipends, equal, on a daily-rate basis, to salaries, including assignment stipends, paid to employees employed in comparable positions by the Austin Independent School District;

(2) is not eligible for longevity pay under Subchapter D, Chapter 659, Government Code, and is not entitled to a paid day off from work on any national or state holiday;

(3) is eligible for sick leave accrual under the General Appropriations Act in each month in which at least one day of the month is included in the term of the employment contract and in any other month in which work is performed or paid leave is taken;

(4) may be permitted by the board to take paid time off from work during the term of the employment contract for personal reasons as designated by the board, but the paid time off may not exceed three days per contract term and may not be carried forward from one contract term to a subsequent contract term;

(5) may be permitted by the board to be paid the salary designated in the employment contract in 12 monthly installments; and

(6) shall work the hours established by the superintendent.

(c) In addition to any other federal and state statutes limiting the liability of employees at the school, Sections 22.0511, 22.0512, 22.052, and 22.053, respectively, apply to professional employees and volunteers of the school.

(d) The governing board may authorize the payment of a stipend to a school employee who is authorized by the superintendent to perform additional duties outside the employee's normal work schedule.

(e) The school's operating hours are as follows:

(1) on a day designated in the school's annual calendar as a day for instruction or teacher service, the school's office hours shall be the same as any other state agency; and

(2) on any other day, the school is not required to maintain office hours, except that the superintendent may require an employee to work as needed for the efficient operation of the school, and an employee who is not required to work must either use paid leave, or if paid leave is not available, may not be paid for that day.

(f) The school may hire an employee to be paid on an hourly basis to work as a substitute for a regular full-time or part-time employee who is unavailable to perform regular duties. An employee working as a substitute for another employee is not entitled to paid holidays or compensatory time off for holidays worked, vacation leave, sick leave, or any other leave provided to a state employee under the General Appropriations Act.

(g) The school may pay to a teacher or employee who provides services or supervises an employee who provides services as described by Subsection (b) and who is employed in a supplemental program under Section 30.021(c) a salary that, on a daily-rate basis, does not exceed the salary paid by the Austin Independent School District to an employee employed in a comparable position during the regular school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1341 (S.B. 1919), § 3, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.03, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 4, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 680 (S.B. 189), § 3, effective June 17, 2005; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 24, effective June 14, 2013.)

Sec. 30.025. Funding of Texas School for the Blind and Visually Impaired.

The funding of the Texas School for the Blind and Visually Impaired consists of:

(1) money the legislature specifically appropriates to the school;

(2) money the agency allocates to the school under this code;

(3) money paid under a contract or other agreement;

(4) money the school receives through a gift or bequest;

(5) a payment the school receives from a school district under Section 30.003; and

(6) the school's share of the available school fund and payments to compensate for payments no longer made from the available school fund as provided by Section 30.003(f).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.026. Sunset Provision [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1481 (S.B. 309), § 7.01(1), effective September 1, 2001.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.027. Lease of Certain Property of Texas School for the Blind and Visually Impaired.

(a) The Texas School for the Blind and Visually Impaired may lease available real property on the school's campus located at 1100 West 45th Street, Austin, Travis County, to a private, nonprofit corporation that provides print-handicapped persons with auditory materials. The lease must provide that the corporation must use the property for those services.

(b) In determining the fair market consideration for the lease, actual benefits to be received by the school, the school's students, and the blind and visually impaired community in the state may be considered.

(c) The asset management division of the General Land Office shall negotiate the terms of the lease, determine the most suitable location for the lease, and close the transaction on behalf of the school as provided by Subchapter E, Chapter 31, Natural Resources Code. The asset management division is not required to transact the lease by sealed bid or public auction.

(d) Proceeds from the real estate transaction conducted under this section shall be deposited to the credit of the general revenue fund.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.028. Lease of Certain Property of Texas School for the Blind and Visually Impaired for a Day-Care Center.

(a) The Texas School for the Blind and Visually Impaired may lease available building space on the school's campus located at 1100 West 45th Street, Austin, Travis County, to a private provider to provide a day-care center for children of the school's employees, other state employees, and private customers.

(b) The school is authorized to determine a fair rental rate for the property and may consider the actual benefits to be received by the school's employees and students.

(c) The asset management division of the General Land Office shall negotiate the terms of the lease and close the transaction on behalf of the school as provided by Subchapter E, Chapter 31, Natural Resources Code.

(d) Proceeds from the lease transaction conducted under this section shall be deposited to the credit of the school in the general revenue fund.

(e) A lease entered into by the board under Subsection (a) is subject to termination on sale or lease of the affected facility under Chapter 672, Acts of the 71st Legislature, Regular Session, 1989 (Article 5421t, Vernon's Texas Civil Statutes), and Subchapter E, Chapter 31, Natural Resources Code.

(Enacted by Acts 1997, 75th Leg., ch. 1341 (S.B. 1919), § 4, effective September 1, 1997.)

Sec. 30.029. Ann P. Silverrain Building.

The classroom building on the campus of the Texas School for the Blind and Visually Impaired formerly known as the Life Skills Building, located at the rear of the east side of the campus near Sunshine Drive at 1100 West 45th Street in Austin, is named the Ann P. Silverrain Building in honor of Ann P. Silverrain.

(Enacted by Acts 1999, 76th Leg., ch. 353 (H.B. 2299), § 1, effective May 29, 1999.)

SUBCHAPTER C
TEXAS SCHOOL FOR THE DEAF

Sec. 30.051. Purpose of Texas School for the Deaf.

(a) The Texas School for the Deaf is a state agency established to provide educational services to persons who are 21 years of age or younger on September 1 of any school year and who are deaf or hard of hearing and who may have one or more other disabilities. The school shall provide comprehensive educational services, on a day or residential basis, and short-term services to allow a student to better achieve educational results from services available in the community. The school is not intended to serve:

(1) students whose needs are appropriately addressed in a home or hospital setting or a residential treatment facility; or

(2) students whose primary, ongoing needs are related to a severe or profound emotional, behavioral, or cognitive deficit.

(b) The school shall serve as a primary statewide resource center promoting excellence in education for students who are deaf or hard of hearing through research, training, and demonstration projects.

(c) The school shall work in partnership with state, regional, and local agencies to provide new or improved programs or methods to serve the previously unmet or future needs of persons throughout the state who are deaf or hard of hearing.

(d) The school shall cooperate with public and private agencies and organizations serving students and other persons who are deaf or hearing impaired in the planning, development, and implementation of effective educational and rehabilitative service delivery systems associated with educating students

who are deaf or hard of hearing. To maximize and make efficient use of state facilities, funding, and resources, the services provided in this area may include conducting a cooperative program with other agencies to serve persons who have graduated from high school and who have identified needs related to vocational training, independent living skills, and social and leisure skills.

(e) If a school district or another educational entity requests an assessment of a student's educational or related needs related to hearing impairment, the school may conduct an assessment and charge a reasonable fee for the assessment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1340 (S.B. 1918), § 1, effective September 1, 1997; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 7, § 7.01, effective May 31, 2006.)

Sec. 30.052. Governance of the Texas School for the Deaf.

(a) The Texas School for the Deaf is governed by a nine-member board appointed by the governor in accordance with this section and confirmed by the senate. A person may not serve simultaneously on the school's governing board and the board of the Texas Commission for the Deaf and Hard of Hearing. Each member of the board must be a person who is experienced in working with persons who are deaf or hard of hearing, a person who is the parent of a person who is deaf, or a person who is deaf. The board, at least five of whom must be deaf, consists of:

(1) at least one person who is an alumnus of the Texas School for the Deaf;

(2) at least three persons who are parents of a deaf person; and

(3) at least three persons who are experienced in working with deaf persons.

(b) Members of the board serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

(c) Members of the board serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) The board shall organize and conduct itself in the same manner as an independent school district board of trustees to the extent that the organization and conduct do not conflict with the board's responsibilities relating to the status of the school as a state agency.

(e) The board shall prepare or provide for preparation of a biennial budget request for the school for presentation to the legislature.

(f) Before the beginning of each fiscal year, the board shall adopt a calendar for the school's operation that provides for at least:

(1) the minimum number of days of instruction required by Section 25.081; and

(2) the minimum number of days of service required by Section 21.401.

(g) Except as otherwise provided by this subsection, an action of the board may be appealed to a district court in Travis County. An action of the board related to a dismissal during the term of a teacher's contract or to a nonrenewal of a teacher's contract may be appealed to the commissioner in the manner prescribed by Subchapter G, Chapter 21. For the purposes of this subsection, the term "teacher" has the meaning assigned by Section 30.055(a).

(h) Except as provided by Subsection (h-1), the board has jurisdiction over the physical assets of the school and shall administer and spend appropriations to carry out the purposes of the school as provided by Section 30.051.

(h-1) The Texas Facilities Commission shall provide facilities maintenance services for the physical facilities of the school, including facilities construction, cabling, facility reconfiguration, and any other services as provided by a memorandum of understanding between the board and the Texas Facilities Commission.

(i) The board may accept and retain control of gifts, devises, bequests, donations, or grants, either absolutely or in trust, of money, securities, personal property, and real property from any individual, estate, group, association, or corporation. The funds or other property donated or the income from the property may be spent by the board for:

(1) any purpose designated by the donor that is in keeping with the lawful purpose of the school; or

(2) any legal purpose, if a specific purpose is not designated by the donor.

(j) The board may license some or all of the physical facilities of the school and shall adopt policies implementing this subsection which may include establishing a fee schedule for lease of the facilities to the following persons under the following conditions:

(1) any organization, group, or individual at the prevailing market rate; or

(2) a federal or state agency, a unit of local government, a nonprofit organization, a school employee, or an individual member of the general public at less than the prevailing market rate if the board determines that sufficient public benefit will be derived from the use.

(k) A license issued by the board under Subsection (j) is subject to termination on sale or lease of the affected facility under Chapter 672, Acts of the 71st Legislature, Regular Session, 1989 (Article

5421t, Vernon's Texas Civil Statutes), and Subchapter E, Chapter 31, Natural Resources Code.

(*l*) The governing board of the Texas School for the Deaf may employ security personnel and may commission peace officers in the same manner as a board of trustees of a school district under Section 37.081.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 6, § 6.02, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1340 (S.B. 1918), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1308 (S.B. 1766), § 1, effective August 31, 1999; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 2, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1358 (S.B. 1457), § 2, effective September 1, 2013.)

Sec. 30.053. Superintendent of the Texas School for the Deaf.

(a) The superintendent of the Texas School for the Deaf is appointed by the governing board of the school.

(b) The superintendent must:

(1) hold an advanced degree in the field of education;

(2) have teaching and administrative experience in programs serving students who are deaf; and

(3) satisfy any other requirements the board establishes.

(c) The superintendent may reside at the school.

(d) The board shall annually establish the superintendent's salary. The annual salary may not exceed 120 percent of the annual salary of the highest paid instructional administrator at the school.

(e) The superintendent is the chief administrative officer of the school. The superintendent shall take any necessary and appropriate action to carry out the functions and purposes of the school according to any general policy the board prescribes.

(f) The superintendent may provide directly to a parent or guardian of a student written information regarding:

(1) the availability of a program offered by a state institution for which the student may be eligible;

(2) any eligibility and admission requirements imposed by the state institution; and

(3) the rights of a student regarding admission to the state institution and appeal of an admission decision.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 7, § 7.02, effective May 31, 2006.)

Sec. 30.054. Printing at the Texas School for the Deaf.

(a) In addition to any other area of curriculum the State Board of Education requires the Texas School for the Deaf to offer, the superintendent of the school may require that the art of printing, in all its branches, be offered at the school.

(b) The superintendent may authorize any public printing for the state to be performed at the Texas School for the Deaf without regard to any contract with a person for public printing.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.055. Employees of the Texas School for the Deaf.

(a) In this section, "teacher" means a principal, supervisor, classroom teacher, school counselor, or other full-time professional employee who is required to hold a certificate issued under Subchapter B, Chapter 21, except the term does not include a superintendent.

(b) The governing board of the school may enter into an employment contract with any employee who provides, or supervises any employee who provides, direct and regular educational services to students or who provides other professional, educational services. An employee employed under this subsection is not subject to Section 2252.901, Government Code. Each teacher shall be employed under a term contract as provided by Subchapter E, Chapter 21, or under a probationary contract as provided by Subchapter C, Chapter 21. An employee employed under a contract under this subsection:

(1) shall be paid in accordance with a salary structure adopted by the superintendent with the concurrence of the board that provides salaries, including assignment stipends, equal, on a daily-rate basis, to salaries, including assignment stipends, paid to employees employed in comparable positions by the Austin Independent School District;

(2) is not eligible for longevity pay under Subchapter D, Chapter 659, Government Code, and is not entitled to a paid day off from work on any national or state holiday;

(3) is eligible for sick leave accrual under the General Appropriations Act in each month in which at least one day of the month is included in the term of the employment contract and in any other month in which work is performed or paid leave is taken;

(4) may be permitted by the board to use a maximum of four days per contract term of accrued sick leave for personal reasons as designated by the board but the number of sick leave

days not used for personal reasons during a contract term may not be carried forward to a subsequent contract term for use as personal leave;

(5) shall be paid the salary designated in the employment contract in 12 monthly installments if the employee chooses to be paid in that manner;

(6) shall work the hours established by the superintendent; and

(7) in addition to the contract salary received during the employee's first year of employment with the school and for the purpose of reducing a vacancy in a position that is difficult to fill because of the specialized nature and the limited number of qualified applicants, may be paid a salary supplement, not to exceed any salary supplement paid by the Austin Independent School District to an employee employed in a comparable position.

(c) In addition to any other federal and state statutes limiting the liability of employees at the school, Sections 22.0511, 22.0512, 22.052, and 22.053, respectively, apply to professional employees and volunteers of the school.

(d) The governing board may authorize the payment of a stipend to a school employee who is authorized by the superintendent to perform additional duties outside the employee's normal work schedule.

(e) The school's operating hours are as follows:

(1) on a day designated in the school's annual calendar as a day for instruction or teacher service, the school's office hours shall be the same as any other state agency; and

(2) on any other day, the school is not required to maintain office hours, except that the superintendent may require an employee to work as needed for the efficient operation of the school, and an employee who is not required to work may be required by the superintendent to use paid leave, or if paid leave is not required to be used or is not available, may be required to take leave without pay.

(f) The school may hire an employee to be paid on an hourly basis to work as a substitute for a regular full-time or part-time employee who is unavailable to perform regular duties. An employee working as a substitute for another employee is not entitled to paid holidays or compensatory time off for holidays worked, vacation leave, sick leave, or any other leave provided to a state employee under the General Appropriations Act.

(g) The school may pay to a teacher or employee who provides services or supervises an employee who provides services as described by Subsection (b) and who is employed to provide short-term services under Section 30.051(a) a salary that, on a daily-rate basis, does not exceed the salary paid by the Austin Independent School District to an employee employed in a comparable position during the regular school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1230 (H.B. 932), § 1, effective June 20, 1997; am. Acts 1997, 75th Leg., ch. 1340 (S.B. 1918), § 3, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.04, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 5, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 7, § 7.03, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 25, effective June 14, 2013.)

Sec. 30.056. Funding of the Texas School for the Deaf.

The funding of the Texas School for the Deaf consists of:

(1) money the legislature specifically appropriates for the school;

(2) money the agency allocates to the school under this code;

(3) money paid under a contract or other agreement;

(4) money the school receives through a gift or bequest;

(5) a payment the school receives from a school district under Section 30.003; and

(6) the school's share of the available school fund and payments to compensate for payments no longer made from the available school fund as provided by Section 30.003(f).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.057. Admission to Texas School for the Deaf.

(a) The Texas School for the Deaf shall provide services in accordance with Section 30.051 to any eligible student with a disability for whom the school is an appropriate placement if the student has been referred for admission:

(1) by the school district in which the student resides under the student's individualized education program;

(2) by the student's parent or legal guardian, or a person with legal authority to act in place of the parent or legal guardian, or the student, if the student is age 18 or older, at any time during the school year, if the referring person chooses the school as the appropriate placement for the student rather than the placement in the student's local or regional program recommended under the student's individualized education program; or

(3) by the student's parent or legal guardian through the student's admission, review, and dismissal or individualized family service plan committee, as an initial referral to special education for students who are three years of age or younger.

(b) The commissioner, with the advice of the school's governing board, shall adopt rules to implement this section. The rules adopted by the commissioner may address the respective responsibilities of a student's parent or legal guardian or a person with legal authority to act in place of the parent or legal guardian, or the student, if age 18 or older, the school district in which the student resides, and the school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1340 (S.B. 1918), § 4, effective September 1, 1997.)

Sec. 30.058. Sunset Provision [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1481 (S.B. 309), § 7.01(2), effective September 1, 2001.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.059. Lease of Certain Property of Texas School for the Deaf for a Day-Care Center.

(a) The Texas School for the Deaf may lease available building space on the school's campus located at 1102 South Congress, Austin, Travis County, to a private provider to provide a day-care center for children of the school's employees, other state employees, and private customers.

(b) The school is authorized to determine a fair rental rate for the property and may consider the actual benefits to be received by the school's employees and students.

(c) The asset management division of the General Land Office shall negotiate the terms of the lease and close the transaction on behalf of the school as provided by Subchapter E, Chapter 31, Natural Resources Code.

(d) Proceeds from the lease transaction conducted under this section shall be deposited to the credit of the school in the general revenue fund.

(e) A lease entered into by the board under Subsection (a) is subject to termination on sale or lease of the affected facility under Chapter 672, Acts of the 71st Legislature, Regular Session, 1989 (Article 5421t, Vernon's Texas Civil Statutes), and Subchapter E, Chapter 31, Natural Resources Code.

(Enacted by Acts 1997, 75th Leg., ch. 1340 (S.B. 1918), § 5, effective September 1, 1997.)

SUBCHAPTER D
REGIONAL DAY SCHOOLS FOR THE DEAF

Sec. 30.081. Legislative Intent Concerning Regional Day Schools for the Deaf.

The legislature, by this subchapter, intends to continue a process of providing on a statewide basis a suitable education to deaf or hard of hearing students who are under 21 years of age and assuring that those students have the opportunity to become independent citizens.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.082. Director of Services.

To carry out legislative intent and the objectives of Section 30.081, the agency shall employ a director of services to students who are deaf or hard of hearing.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.083. Statewide Plan.

(a) The director of services shall develop and administer a comprehensive statewide plan for educational services for students who are deaf or hard of hearing, including continuing diagnosis and evaluation, counseling, and teaching. The plan shall be designed to accomplish the following objectives:

(1) providing assistance and counseling to parents of students who are deaf or hard of hearing in regional day school programs for the deaf and admitting to the programs students who have a hearing loss that interferes with the processing of linguistic information;

(2) enabling students who are deaf or hard of hearing to reside with their parents or guardians and be provided an appropriate education in their home school districts or in regional day school programs for the deaf;

(3) enabling students who are deaf or hard of hearing who are unable to attend schools at their place of residence and whose parents or guardians live too far from facilities of regional day school programs for the deaf for daily commuting to be accommodated in foster homes or other residential school facilities provided for by the agency so that those children may attend a regional day school program for the deaf;

(4) enrolling in the Texas School for the Deaf those students who are deaf or hard of hearing whose needs can best be met in that school and designating the Texas School for the Deaf as the statewide educational resource for students who are deaf or hard of hearing;

(5) encouraging students in regional day school programs for the deaf to attend general education classes on a part-time, full-time, or trial basis; and

(6) recognizing the need for development of language and communications abilities in students who are deaf or hard of hearing, but also calling for the use of methods of communication that will meet the needs of each individual student, with each student assessed thoroughly so as to ascertain the student's potential for communications through a variety of means, including through oral or aural means, fingerspelling, or sign language.

(b) The director of services may establish separate programs to accommodate diverse communication methodologies.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.084. Establishment of Programs.

The State Board of Education shall apportion the state into five regions and establish a regional day school program for the deaf in each region. Activities of a regional day school program for the deaf may be conducted on more than one site.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.085. Use of Local Resources.

Local resources shall be used to the fullest practicable extent in the establishment and operation of the regional day school programs for the deaf.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.086. Powers and Duties of Agency.

(a) The agency shall contract with any qualified organization or individual for diagnostic, evaluative, or instructional services or any other services relating to the education of students who are deaf or hard of hearing, including transportation or maintenance services.

(b) The agency shall employ educational and other personnel, may purchase or lease property, may accept gifts or grants of property or services from any source, including an independent school district or institution of higher education in this state, to establish and operate regional day school programs for the deaf.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.087. Funding.

(a) The cost of educating students who are deaf or hard of hearing shall be borne by the state and paid from the foundation school fund, but independent school districts and institutions of higher education in the state may and are encouraged to make available property or services in cooperation with the regional day school programs for the deaf for any activities related to the education of students who are deaf or hard of hearing, including research, personnel training, and staff development.

(b) From the amount appropriated for regional day school programs, the commissioner shall allocate funds to each program based on the number of weighted full-time equivalent students served. The commissioner may consider local resources available in allocating funds under this subsection.

(c) A school district may receive an allotment for transportation of students participating in a regional day school program, determined in the same manner as an allotment for the transportation of other special education students.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER E
TEXAS YOUTH COMMISSION FACILITIES

Sec. 30.101. Purpose.

The purpose of this subchapter is to provide the state available school fund apportionment to children committed to the Texas Youth Commission. To provide the state available school fund apportionment for educational purposes, the educational programs provided to those children are considered to be educational services provided by public schools.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 30.102. Allocation.

(a) The Texas Youth Commission is entitled to receive the state available school fund apportionment based on the average daily attendance in the commission's educational programs of students who are at least three years of age and not older than 21 years of age.

(a-1) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1996.]

(b) A classroom teacher, full-time librarian, full-time school counselor certified under Subchapter B, Chapter 21, or full-time school nurse employed by the commission is entitled to receive as a minimum salary the monthly salary specified by Section 21.402. A classroom teacher, full-time librarian, full-time school counselor, or full-time school nurse may be paid, from funds appropriated to the commission, a salary in excess of the minimum specified by that

section, but the salary may not exceed the rate of pay for a similar position in the public schools of an adjacent school district.

(b-1) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective January 1, 1997.]

(c) The commissioner, with the assistance of the comptroller, shall determine the amount that the commission would have received from the available school fund if Chapter 28, Acts of the 68th Legislature, 2nd Called Session, 1984, had not transferred statutorily dedicated taxes from the available school fund to the foundation school fund. That amount, minus any amount the schools do receive from the available school fund, shall be set apart as a separate account in the foundation school fund and appropriated to the commission for educational purposes.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.33, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 26, effective June 14, 2013.)

Sec. 30.103. Memorandum of Understanding.

The Texas Youth Commission with the assistance of the Texas Workforce Commission and the Texas Workforce Investment Council shall by rule adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance programs to children committed or formerly sentenced to the Texas Youth Commission. The Texas Youth Commission shall coordinate the development of the memorandum of understanding and include in its annual report information describing the number of children in the preceding year receiving services under the memorandum.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 817 (S.B. 280), art. 10, § 10.01, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 818 (S.B. 281), art. 6, § 6.02, effective September 1, 2003.)

Sec. 30.104. Credit for Completion of Educational Programs; High School Diploma and Certificate.

(a) A school district shall grant to a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in Texas Youth Commission educational programs.

(b) A student may graduate and receive a diploma from a Texas Youth Commission educational program if:

(1) the student successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) and complies with Section 39.025; or

(2) the student successfully completes the curriculum requirements under Section 28.025(a) as modified by an individualized education program developed under Section 29.005.

(c) A Texas Youth Commission educational program may issue a certificate of course-work completion to a student who successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) but who fails to comply with Section 39.025.

(Enacted by Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 42, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 164 (H.B. 25), § 5, effective May 27, 2005.)

Sec. 30.106. Reading and Behavior Plan.

(a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Youth Commission shall not only fulfill the commission's duties under state and federal law to provide general and special educational services to students in commission educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(b) To improve the reading skills of students in Texas Youth Commission educational programs, the commission shall:

(1) adopt a reliable battery of reading assessments that:

(A) are based on a normative sample appropriate to students in commission educational programs;

(B) are designed to be administered on an individual basis; and

(C) allow school employees to:

(i) evaluate performance in each essential component of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(ii) monitor progress in areas of deficiency specific to an individual student; and

(iii) provide reading performance data;

(2) administer the assessments adopted under Subdivision (1):

(A) at periodic intervals not to exceed 12 months, to each student in a commission educational program; and

(B) at least 15 days and not more than 30 days before a student is released from the commission;

(3) provide at least 60 minutes per school day of individualized reading instruction to each student in a commission educational program who exhibits deficits in reading on the assessments adopted under Subdivision (1):

(A) by trained educators with expertise in teaching reading to struggling adolescent readers; and

(B) through the use of scientifically based, peer-reviewed reading curricula that:

(i) have proven effective in improving the reading performance of struggling adolescent readers;

(ii) address individualized and differentiated reading goals; and

(iii) include each of the essential components of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(4) require each teacher in a commission regular or special educational program who teaches English language arts, reading, mathematics, science, social studies, or career and technology education to be trained in incorporating content area reading instruction using empirically validated instructional methods that are appropriate for struggling adolescent readers; and

(5) evaluate the effectiveness of the commission's plan to increase reading skills according to the following criteria:

(A) an adequate rate of improvement in reading performance, as measured by monthly progress monitoring using curricular-based assessments in each of the essential components of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(B) a significant annual rate of improvement in reading performance, disaggregated by subgroups designated under commission rule, as measured using the battery of reading assessments adopted under Subdivision (1); and

(C) student ratings of the quality and impact of the reading plan under this subsection, as measured on a student self-reporting instrument.

(c) To increase the positive social behaviors of students in Texas Youth Commission educational programs and to create an educational environment that facilitates learning, the commission shall:

(1) adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:

(A) are based on current behavioral research; and

(B) are systematically and individually applied to students consistent with the demonstrated level of need;

(2) require each teacher and other educational staff member in a commission educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

(A) documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under commission rule;

(B) documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under commission rule;

(C) validated measurement of systemic positive behavioral support interventions; and

(D) the number of minutes students are out of the regular classroom because of disciplinary reasons.

(d) The Texas Youth Commission shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

(e) A student in a Texas Youth Commission educational program may not be released on parole from the commission unless the student participates, to the extent required by commission rule, in the positive behavior support system under Subsection (c). A student in a commission educational program who exhibits deficits in reading on the assessments adopted under Subsection (b)(1) must also participate in reading instruction to the extent required by this section and by commission rule before the student may be released on parole.

(f) to (h) [Expired pursuant to Acts 2009, 81st Leg., ch. 1187 (H.B. 3689), § 4.003, effective January 1, 2013.]

(Enacted by Acts 2009, 81st Leg., ch. 1187 (H.B. 3689), § 4.003, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1187 (H.B. 3689), § 5.007 provides: "Section 30.106(e), Education Code, as added by this Act, applies to release on parole from the Texas Youth Commission beginning September 1, 2010."

CHAPTER 30A
STATE VIRTUAL SCHOOL NETWORK

Subchapter A. General Provisions

Subchapter B. Administrative Provisions

Subchapter C. Provision of Electronic Courses

Subchapter D. Funding

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 30A.001. Definitions.

In this chapter:

(1) "Administering authority" means the entity designated under Section 30A.053 to administer the state virtual school network.

(2) "Board" means the State Board of Education.

(3) "Course" means a course of study that meets the requirements of Section 30A.104.

(4) "Electronic course" means a course in which:

(A) instruction and content are delivered primarily over the Internet;

(B) a student and teacher are in different locations for a majority of the student's instructional period;

(C) most instructional activities take place in an online environment;

(D) the online instructional activities are integral to the academic program;

(E) extensive communication between a student and a teacher and among students is emphasized; and

(F) a student is not required to be located on the physical premises of a school district or open-enrollment charter school.

(5) "Electronic diagnostic assessment" means a formative or instructional assessment used in conjunction with an electronic course to ensure that:

(A) a teacher of an electronic course has information related to a student's academic performance in that course; and

(B) a student enrolled in an electronic course makes documented progress in mastering the content of the course.

(6) "Electronic professional development course" means a professional development course in which instruction and content are delivered primarily over the Internet.

(7) "Course provider" means:

(A) a school district or open-enrollment charter school that provides an electronic course through the state virtual school network to:

(i) students enrolled in that district or school; or

(ii) students enrolled in another school district or school;

(B) a public or private institution of higher education, nonprofit entity, or private entity that provides a course through the state virtual school network; or

(C) an entity that provides an electronic professional development course through the state virtual school network.

(8) "Public or private institution of higher education" means an institution of higher education, as defined by 20 U.S.C. Section 1001.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.002. Student Eligibility.

(a) A student is eligible to enroll in a course provided through the state virtual school network only if the student:

(1) on September 1 of the school year:

(A) is younger than 21 years of age; or

(B) is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Section 42.003;

(2) has not graduated from high school; and

(3) is otherwise eligible to enroll in a public school in this state.

(b) A student is eligible to enroll full-time in courses provided through the state virtual school network only if the student:

(1) was enrolled in a public school in this state in the preceding school year; or

(2) has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.

(c) Notwithstanding Subsection (a)(3) or (b), a student is eligible to enroll in one or more courses provided through the state virtual school network or enroll full-time in courses provided through the network if the student:

(1) is a dependent of a member of the United States military;

(2) was previously enrolled in high school in this state; and

(3) does not reside in this state due to a military deployment or transfer.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 850 (S.B. 2248), § 2, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 26, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.008, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.01, effective September 28, 2011.)

Sec. 30A.003. Provision of Computer Equipment or Internet Service.

This chapter does not:

(1) require a school district, an open-enrollment charter school, a course provider, or the state to provide a student with home computer equipment or Internet access for a course provided through the state virtual school network; or

(2) prohibit a school district or open-enrollment charter school from providing a student with home computer equipment or Internet access for a course provided through the state virtual school network.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 4, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.004. Applicability of Chapter.

(a) Except as provided by Subsection (c), this chapter does not affect the provision of a course to a student while the student is located on the physical premises of a school district or open-enrollment charter school.

(b) This chapter does not affect the provision of distance learning courses offered under other law.

(b-1) Requirements imposed by or under this chapter do not apply to a virtual course provided by a school district only to district students if the course is not provided as part of the state virtual school network.

(c) A school district or open-enrollment charter school may choose to participate in providing an electronic course or an electronic diagnostic assessment under this chapter to a student who is located on the physical premises of a school district or open-enrollment charter school.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 27, effective September 1, 2009.)

Sec. 30A.005. Telecommunications or Information Services Network Not Created.

This chapter does not create or authorize the creation of a telecommunications or information services network.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.006. Authorization for Certain Electronic Courses and Programs.

(a) An electronic course or program that was offered or could have been offered during the 2008-2009 school year under Section 29.909, as that

section existed on January 1, 2009, may be offered during a subsequent school year through the state virtual school network.

(b) The commissioner may by rule modify any provision of this chapter necessary to provide for the transition of an electronic course or program from the authority to operate under former Section 29.909 to the authority to operate under this chapter.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 28, effective September 1, 2009.)

Sec. 30A.007. Local Policy on Electronic Courses.

(a) A school district or open-enrollment charter school shall adopt a written policy that provides district or school students with the opportunity to enroll in electronic courses provided through the state virtual school network. The policy must be consistent with the requirements imposed by Section 26.0031.

(a-1) A school district or open-enrollment charter school shall, at least once per school year, send to a parent of each district or school student enrolled at the middle or high school level a copy of the policy adopted under Subsection (a). A district or school may send the policy with any other information that the district or school sends to a parent.

(b) For purposes of a policy adopted under Subsection (a), the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.02, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 5, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

SUBCHAPTER B
ADMINISTRATIVE PROVISIONS

Sec. 30A.051. Governance of Network.

(a) The commissioner shall:

(1) administer the state virtual school network; and

(2) ensure:

(A) high-quality education for students in this state who are being educated through electronic courses provided through the state virtual school network; and

(B) equitable access by students to those courses.

(b) The commissioner may adopt rules necessary to implement this chapter.

(c) To the extent practicable, the commissioner shall solicit advice from school districts concerning:

(1) administration of the state virtual school network; and

(2) adoption of rules under Subsection (b).

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.052. General Powers and Duties of Commissioner.

(a) The commissioner shall prepare or provide for preparation of a biennial budget request for the state virtual school network for presentation to the legislature.

(b) The commissioner has exclusive jurisdiction over the assets of the network and shall administer and spend appropriations made for the benefit of the network.

(c) The commissioner shall:

(1) employ a limited number of administrative employees in connection with the network; and

(2) contract with a regional education service center for the service center to operate the network.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.053. Designation of Administering Authority.

The commissioner shall designate an agency employee or a group of agency employees to act as the administering authority for the state virtual school network.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.054. Student Performance Information.

To the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), the commissioner shall make information relating to the performance of students enrolled in electronic courses under this chapter available to school districts, open-enrollment charter schools, and the public.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 3, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.004, effective September 1, 2013.)

Sec. 30A.055. Limitations on Administering Authority Powers.

The administering authority may not provide educational services directly to a student.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.056. Contracts with Virtual School Service Providers.

(a) Each contract between a course provider and the administering authority must:

(1) provide that the administering authority may cancel the contract without penalty if legislative authorization for the course provider to offer an electronic course through the state virtual school network is revoked; and

(2) be submitted to the commissioner.

(b) A contract submitted under this section is public information for purposes of Chapter 552, Government Code.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 6, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

SUBCHAPTER C
PROVISION OF ELECTRONIC COURSES

Sec. 30A.101. Eligibility to Act As Course Provider.

(a) A school district or open-enrollment charter school is eligible to act as a course provider under this chapter only if the district or school is rated acceptable under Section 39.054. An open-enrollment charter school may serve as a course provider only:

(1) to a student within its service area; or

(2) to another student in the state:

(A) through an agreement with the school district in which the student resides; or

(B) if the student receives educational services under the supervision of a juvenile probation department, the Texas Juvenile Justice Department, or the Texas Department of Criminal Justice, through an agreement with the applicable agency.

(b) [Repealed by Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 47(4), effective September 1, 2013 and by Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 25, effective June 14, 2013.]

(c) A nonprofit entity, private entity, or corporation is eligible to act as a course provider under this chapter only if the nonprofit entity, private entity, or corporation:

(1) complies with all applicable federal and state laws prohibiting discrimination;

(2) demonstrates financial solvency; and

(3) provides evidence of prior successful experience offering online courses to middle or high school students, with demonstrated student success in course completion and performance, as determined by the commissioner.

(d) An entity other than a school district or open-enrollment charter school is not authorized to award course credit or a diploma for courses taken through the state virtual school network.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 46, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 29, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 47(4), effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), §§ 7, 8, 25, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.102. Listing of Electronic Courses.

(a) The administering authority shall:

(1) publish the criteria required by Section 30A.103 for electronic courses that may be offered through the state virtual school network;

(2) using the criteria required by Section 30A.103, evaluate electronic courses submitted by a course provider to be offered through the network;

(3) create a list of electronic courses approved by the administering authority; and

(4) publish in a prominent location on the network's Internet website the list of approved electronic courses offered through the network and a detailed description of the courses that complies with Section 30A.108.

(b) To ensure that a full range of electronic courses, including advanced placement courses, are offered to students in this state, the administering authority:

(1) shall create a list of those subjects and courses designated by the board under Subchapter A, Chapter 28, for which the board has identified essential knowledge and skills or for which the board has designated content requirements under Subchapter A, Chapter 28;

(2) shall enter into agreements with school districts, open-enrollment charter schools, public or private institutions of higher education, and other eligible entities for the purpose of offering the courses through the state virtual school network; and

(3) may develop or authorize the development of additional electronic courses that:

(A) are needed to complete high school graduation requirements; and

(B) are not otherwise available through the state virtual school network.

(c) The administering authority shall develop a comprehensive course numbering system for all courses offered through the state virtual school network to ensure, to the greatest extent possible, consistent numbering of similar courses offered across all course providers.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 9, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.1021. Public Access to User Comments Regarding Electronic Courses.

(a) The administering authority shall provide students who have completed or withdrawn from electronic courses offered through the virtual school network and their parents with a mechanism for providing comments regarding the courses.

(b) The mechanism required by Subsection (a) must include a quantitative rating system and a list of verbal descriptors that a student or parent may select as appropriate.

(c) The administering authority shall provide public access to the comments submitted by students and parents under this section. The comments must be in a format that permits a person to sort the comments by teacher, electronic course, and course provider.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.03, effective January 1, 2012; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 10, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.103. Criteria for Electronic Courses.

(a) The board by rule shall establish an objective standard criteria for an electronic course to ensure alignment with the essential knowledge and skills requirements identified or content requirements established under Subchapter A, Chapter 28. The criteria may not permit the administering authority to prohibit a course provider from applying for approval for an electronic course for a course for which essential knowledge and skills have been identified.

(b) The criteria must be consistent with Section 30A.104 and may not include any requirements that are developmentally inappropriate for students.

(c) The commissioner by rule may:

(1) establish additional quality-related criteria for electronic courses; and

(2) provide for a period of public comment regarding the criteria.

(d) The criteria must be in place at least six months before the administering authority uses the criteria in evaluating an electronic course under Section 30A.105.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 11, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.104. Course Eligibility in General.

(a) A course offered through the state virtual school network must:

(1) be in a specific subject that is part of the required curriculum under Section 28.002(a);

(2) be aligned with the essential knowledge and skills identified under Section 28.002(c) for a grade level at or above grade level three; and

(3) be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting during:

(A) a semester of 90 instructional days; and

(B) a school day that meets the minimum length of a school day required under Section 25.082.

(b) If the essential knowledge and skills with which an approved course is aligned in accordance with Subsection (a)(2) are modified, the course provider must be provided the same time period to revise the course to achieve alignment with the

modified essential knowledge and skills as is provided for the modification of a course provided in a traditional classroom setting.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 30, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.04, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 12, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.1041. Driver Education Courses.

(a) A school district, open-enrollment charter school, public or private institution of higher education, or other eligible entity may seek approval to offer through the state virtual school network the classroom portion of a driver education and traffic safety course that complies with the requirements for the program developed under Section 29.902.

(b) A school district, open-enrollment charter school, public or private institution of higher education, or other eligible entity may not offer through the state virtual school network the laboratory portion of a driver education and traffic safety course.

(c) A driver education and traffic safety course offered in compliance with this section must be the equivalent in instructional rigor and scope to a course that is provided in a traditional classroom setting for a period of 56 hours.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 13, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.1042. Reciprocity Agreements with Other States.

(a) The administering authority may enter into a reciprocity agreement with one or more other states to facilitate expedited course approval.

(b) An agreement under this section must ensure that any course approved in accordance with the agreement:

(1) is evaluated to ensure compliance with Sections 30A.104(a)(1) and (2) before the course may be offered through the state virtual school network; and

(2) meets the requirements of Section 30A.104(a)(3).

(Enacted by Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 14, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.105. Approval of Electronic Courses.

(a) The administering authority shall:

(1) establish a submission and approval process for electronic courses that occurs on a rolling basis; and

(2) evaluate electronic courses to be offered through the state virtual school network.

(a-1) The administering authority shall publish the submission and approval process for electronic courses established under Subsection (a)(1), including any deadlines and guidelines applicable to the process.

(a-2) The evaluation required by Subsection (a)(2) must include review of each electronic course component, including off-line material proposed to be used in the course.

(b) The administering authority shall establish the cost of providing an electronic course approved under Subsection (a), which may not exceed $400 per student per course or $4,800 per full-time student.

(c) The agency shall pay the reasonable costs of evaluating and approving electronic courses. If funds available to the agency for that purpose are insufficient to pay the costs of evaluating and approving all electronic courses submitted for evaluation and approval, the agency shall give priority to paying the costs of evaluating and approving the following courses:

(1) courses that satisfy high school graduation requirements;

(2) courses that would likely benefit a student in obtaining admission to a postsecondary institution;

(3) courses, including dual credit courses, that allow a student to earn college credit or other advanced credit;

(4) courses in subject areas most likely to be highly beneficial to students receiving educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice; and

(5) courses in subject areas designated by the commissioner as commonly experiencing a shortage of teachers.

(d) If the agency determines that the costs of evaluating and approving a submitted electronic course will not be paid by the agency due to a shortage of funds available for that purpose, the school district, open-enrollment charter school, public or private institution of higher education, or other eligible entity that submitted the course for evaluation and approval may pay a fee equal to the amount of the costs in order to ensure that evaluation of the course occurs. The agency shall establish and publish a fee schedule for purposes of this subsection.

(e) The administering authority shall require a course provider to apply for renewed approval of a previously approved course in accordance with a schedule designed to coincide with revisions to the required curriculum under Section 28.002(a) but not later than the 10th anniversary of the previous approval.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 31, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.05, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 15, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.1051. Electronic Course Portability.

A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 32, effective September 1, 2009.)

Sec. 30A.1052. Inducements for Enrollment Prohibited.

(a) A course provider may not promise or provide equipment or any other thing of value to a student or a student's parent as an inducement for the student to enroll in an electronic course offered through the state virtual school network.

(b) The commissioner shall revoke approval under this chapter of electronic courses offered by a course provider that violates this section.

(c) The commissioner's action under this section is final and may not be appealed.

(Enacted by Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 16, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.106. Appeal to Commissioner.

(a) A course provider may appeal to the commissioner the administering authority's refusal to approve an electronic course under Section 30A.105.

(b) If the commissioner determines that the administering authority's evaluation did not follow the criteria or was otherwise irregular, the commissioner may overrule the administering authority and place the course on a list of approved courses. The commissioner's decision under this section is final and may not be appealed.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 17, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.107. Options for Providers and Students.

(a) A course provider may offer electronic courses to:

(1) students and adults who reside in this state; and

(2) students who reside outside this state and who meet the eligibility requirements under Section 30A.002(c).

(b) A student who is enrolled in a school district or open-enrollment charter school in this state as a full-time student may take one or more electronic courses through the state virtual school network.

(c) A student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a full-time student may, subject to Section 30A.155, enroll in electronic courses through the state virtual school network. A student to whom this subsection applies:

(1) may not in any semester enroll in more than two electronic courses offered through the state virtual school network;

(2) is not considered to be a public school student;

(3) must obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides;

(4) is not entitled to enroll in a course offered by a school district or open-enrollment charter school

other than an electronic course provided through the network; and

(5) is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

(d) A school district or open-enrollment charter school may not require a student to enroll in an electronic course.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 33, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.06, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 18, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.108. Informed Choice Reports.

(a) Not later than a date determined by the commissioner, the administering authority shall create and maintain on the state virtual school network's Internet website an "informed choice" report as provided by commissioner rule.

(b) Each report under this section must describe each electronic course offered through the state virtual school network and include the following information:

(1) course requirements;

(2) the school year calendar for the course, including any options for continued participation outside of the standard school year calendar;

(3) the entity that developed the course;

(4) the entity that provided the course;

(5) the course completion rate;

(6) aggregate student performance on an assessment instrument administered under Section 39.023 to students enrolled in the course;

(7) aggregate student performance on all assessment instruments administered under Section 39.023 to students who completed the course provider's courses; and

(8) other information determined by the commissioner.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 19, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.109. Compulsory Attendance.

The commissioner by rule shall adopt procedures for reporting and verifying the attendance of a student enrolled in an electronic course provided through the state virtual school network. The rules may modify the application of Sections 25.085, 25.086, and 25.087 for a student enrolled in an electronic course but must require participation in an educational program equivalent to the requirements prescribed by those sections.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 34, effective September 1, 2009.)

Sec. 30A.110. Applicability of Accountability Requirements.

(a) Chapter 39 applies to an electronic course offered through the state virtual school network in the same manner that that chapter applies to any other course offered by a school district or open-enrollment charter school.

(b) Each student enrolled under this chapter in an electronic course offered through the state virtual school network must take any assessment instrument under Section 39.023 that is administered to students who are provided instruction in the course material in the traditional classroom setting. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.

(c) A school district or open-enrollment charter school shall report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the state virtual school network separately from the results of assessment instruments administered to other students.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.111. Teacher and Instructor Qualifications.

(a) Each teacher of an electronic course offered by a school district or open-enrollment charter school through the state virtual school network must:

(1) be certified under Subchapter B, Chapter 21, to teach that course and grade level; and

(2) successfully complete the appropriate professional development course provided under Section 30A.112(a) or 30A.1121 before teaching an electronic course offered through the network.

(b) The commissioner by rule shall establish procedures for verifying successful completion by a

teacher of the appropriate professional development course required by Subsection (a)(2).

(c) The commissioner by rule shall establish qualifications and professional development requirements applicable to college instructors providing instruction in dual credit courses through the state virtual school network that allow a student to earn high school credit and college credit or other credit.
(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 35, effective September 1, 2009.)

Sec. 30A.112. Educator Professional Development.

(a) The state virtual school network shall provide or authorize providers of electronic professional development courses or programs to provide professional development for teachers who are teaching electronic courses through the network.

(b) The state virtual school network may provide or authorize providers of electronic professional development courses to provide professional development for:

(1) teachers who are teaching subjects or grade levels for which the teachers are not certified;

(2) teachers who must become highly qualified under Section 1119, No Child Left Behind Act of 2001 (20 U.S.C. Section 6319); or

(3) teachers who must become qualified under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.1121. Alternative Educator Professional Development.

(a) Subject to Subsection (b), a course provider may provide professional development courses to teachers seeking to become authorized to teach electronic courses provided through the state virtual school network. A course provider may provide a professional development course that is approved under Subsection (b) to any interested teacher, regardless of the teacher's employer.

(b) The agency shall review each professional development course sought to be provided by a course provider under Subsection (a) to determine if the course meets the quality standards established under Section 30A.113. If a course meets those standards, the course provider may provide the course for purposes of enabling a teacher to comply with Section 30A.111(a)(2).
(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 36, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 20, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.113. Criteria for Electronic Professional Development Courses.

The commissioner by rule shall establish objective standard criteria for quality of an electronic professional development course provided under Section 30A.112.
(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.114. Regional Education Service Centers.

The commissioner by rule shall allow regional education service centers to participate in the state virtual school network in the same manner as course providers.
(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 21, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.115. Additional Resources.

The commissioner by rule may establish procedures for providing additional resources, such as an online library, to students and educators served through the state virtual school network. The administering authority may provide the additional resources only if the commissioner receives an appropriation, gift, or grant sufficient to pay the costs of providing those resources.
(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

SUBCHAPTER D
FUNDING

Sec. 30A.151. Costs to Be Borne by State.

(a) Except as authorized by Section 30A.152 or this section, the state shall pay the cost of operating the state virtual school network.

(b) The operating costs of the state virtual school network may not be charged to a school district or open-enrollment charter school.

(c) The costs of providing electronic professional development courses may be paid by state funds appropriated by the legislature or federal funds that may be used for that purpose.

(d) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(3), effective September 1, 2009.]

(e) State funds provided in connection with the state virtual school network may not be used in a manner that violates Section 7, Article I, Texas Constitution.

(f) For a full-time electronic course program offered through the state virtual school network for a grade level at or above grade level three but not above grade level eight, a school district or open-enrollment charter school is entitled to receive federal, state, and local funding for a student enrolled in the program in an amount equal to the funding the district or school would otherwise receive for a student enrolled in the district or school. The district or school may calculate the average daily attendance of a student enrolled in the program based on:

(1) hours of contact with the student;

(2) the student's successful completion of a course; or

(3) a method approved by the commissioner.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 37, 105(a)(3), effective September 1, 2009.)

Sec. 30A.152. Grants and Federal Funds.

(a) The commissioner may accept a grant for purposes of this chapter from a public or private person and shall use those funds in accordance with the commissioner's duties regarding the state virtual school network.

(b) The commissioner may accept federal funds for purposes of this chapter and shall use those funds in compliance with applicable federal law, regulations, and guidelines.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.153. Foundation School Program Funding.

(a) Subject to the limitation imposed under Subsection (a-1), a school district or open-enrollment charter school in which a student is enrolled is entitled to funding under Chapter 42 or in accordance with the terms of a charter granted under Section 12.101 for the student's enrollment in an electronic course offered through the state virtual school network in the same manner that the district or school is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.

(a-1) For purposes of Subsection (a), a school district or open-enrollment charter school is limited to the funding described by that subsection for a student's enrollment in not more than three electronic courses during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.

(b) The commissioner, after considering comments from school district and open-enrollment charter school representatives, shall adopt a standard agreement that governs the costs, payment of funds, and other matters relating to a student's enrollment in an electronic course offered through the state virtual school network. The agreement may not require a school district or open-enrollment charter school to pay the provider the full amount until the student has successfully completed the electronic course, and the full amount may not exceed the limits specified by Section 30A.105(b).

(c) A school district or open-enrollment charter school shall use the standard agreement adopted under Subsection (b) unless:

(1) the district or school requests from the commissioner permission to modify the standard agreement; and

(2) the commissioner authorizes the modification.

(d) The commissioner shall adopt rules necessary to implement this section, including rules regarding attendance accounting.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.07, effective January 1, 2012; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 22, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 30A.154. Funding for Accelerated Students [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(4), effective September 1, 2009.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007.)

Sec. 30A.155. Fees.

(a) A school district or open-enrollment charter school may charge a fee for enrollment in an electronic course provided through the state virtual school network to a student who resides in this state and:

(1) is enrolled in a school district or open-enrollment charter school as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other school districts or open-enrollment charter schools; or

(2) elects to enroll in an electronic course provided through the network for which the school district or open-enrollment charter school in which the student is enrolled as a full-time student declines to pay the cost, as authorized by Section 26.0031(c-1).

(a-1) A school district or open-enrollment charter school may charge a fee for enrollment in an electronic course provided through the state virtual school network during the summer.

(b) A school district or open-enrollment charter school shall charge a fee for enrollment in an electronic course provided through the state virtual school network to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

(c) The amount of a fee charged a student under Subsection (a), (a-1), or (b) for each electronic course in which the student enrolls through the state virtual school network may not exceed the lesser of:

(1) the cost of providing the course; or

(2) $400.

(c-1) A school district or open-enrollment charter school that is not the course provider may charge a student enrolled in the district or school a nominal fee, not to exceed the amount specified by the commissioner, if the student enrolls in an electronic course provided through the state virtual school network that exceeds the course load normally taken by students in the equivalent grade level. A juvenile probation department or state agency may charge a comparable fee to a student under the supervision of the department or agency.

(d) Except as provided by this section, the state virtual school network may not charge a fee to students for electronic courses provided through the network.

(e) This chapter does not entitle a student who is not enrolled on a full-time basis in a school district or open-enrollment charter school to the benefits of the Foundation School Program.

(Enacted by Acts 2007, 80th Leg., ch. 1337 (S.B. 1788), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 38, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 23, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

CHAPTER 31
INSTRUCTIONAL MATERIALS

Subchapter A. General Provisions

Section

Subchapter B. State Funding, Adoption, and Purchase

Subchapter B-1. State-Developed Open-Source Instructional Materials

Subchapter C. Local Operations

Subchapter D. Administrative Penalties and Penal Provisions

Subchapter E. Disposition of Textbooks [Repealed]

SUBCHAPTER A GENERAL PROVISIONS

Sec. 31.001. Free Instructional Materials.

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Section 31.104(d), a school district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 18, effective July 19, 2011.)

Sec. 31.002. Definitions.

In this chapter:

(1) "Instructional material" means content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, on-line services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open-source instructional material.

(1-a) "Open-source instructional material" means electronic instructional material that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the instructional material. The term includes state-developed open-source instructional material purchased under Subchapter B-1.

(2) "Publisher" includes an on-line service or a developer or distributor of electronic instructional materials.

(3) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(1), effective July 19, 2011.]

(4) "Technological equipment" means hardware, a device, or equipment necessary for:

(A) instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or

(B) professional use by a classroom teacher.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 19, 67(1), effective July 19, 2011.)

Sec. 31.003. Rules.

The State Board of Education may adopt rules, consistent with this chapter, for the adoption, requisition, distribution, care, use, and disposal of instructional materials.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 20, effective July 19, 2011.)

Sec. 31.004. Certification of Provision of Instructional Materials.

(a) Each school district and open-enrollment charter school shall annually certify to the State Board of Education and the commissioner that, for each subject in the required curriculum under Section 28.002, other than physical education, and each grade level, the district provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.

(b) To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills as required by Subsection (a), a school district or open-enrollment charter school may consider:

(1) instructional materials adopted by the State Board of Education;

(2) materials adopted or purchased by the commissioner under Section 31.0231 or Subchapter B-1;

(3) open-source instructional materials submitted by eligible institutions and adopted by the State Board of Education under Section 31.0241;

(4) open-source instructional materials made available by other public schools; and

(5) instructional materials developed or purchased by the school district or open-enrollment charter school.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 2, effective September 1, 2009; am. Acts

2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 20, effective July 19, 2011.)

Sec. 31.005. Funding for Open-Enrollment Charter Schools.

An open-enrollment charter school is entitled to the instructional materials allotment under this chapter and is subject to this chapter as if the school were a school district.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 20, effective July 19, 2011.)

SUBCHAPTER B
STATE FUNDING, ADOPTION, AND PURCHASE

Sec. 31.021. State Instructional Materials Fund.

(a) The state instructional materials fund consists of:

(1) an amount set aside by the State Board of Education from the available school fund, in accordance with Section 43.001(d); and

(2) all amounts lawfully paid into the fund from any other source.

(b) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(2), effective July 19, 2011.]

(c) Money in the state instructional materials fund shall be used to:

(1) fund the instructional materials allotment, as provided by Section 31.0211;

(2) purchase special instructional materials for the education of blind and visually impaired students in public schools;

(3) pay the expenses associated with the instructional materials adoption and review process under this chapter;

(4) pay the expenses associated with the purchase or licensing of open-source instructional material;

(5) pay the expenses associated with the purchase of instructional material, including intrastate freight and shipping and the insurance expenses associated with intrastate freight and shipping;

(6) fund the technology lending grant program established under Section 32.201; and

(7) provide funding to the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Youth Commission.

(d) Money transferred to the state instructional materials fund remains in the fund until spent and does not lapse to the state at the end of the fiscal year.

(e), (f) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(2), effective July 19, 2011.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 258 (S.B. 297), §§ 1, 2, effective May 26, 1997; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 20, effective June 10, 2003; am. Acts 2005, 79th Leg., ch. 1339 (S.B. 151), § 2, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 2, effective June 19, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 21, 22, 67(2), effective July 19, 2011.)

Sec. 31.0211. Instructional Materials Allotment.

(a) A school district is entitled to an annual allotment from the state instructional materials fund for each student enrolled in the district on a date during the preceding school year specified by the commissioner. The commissioner shall determine the amount of the allotment per student each year on the basis of the amount of money available in the state instructional materials fund to fund the allotment. An allotment under this section shall be transferred from the state instructional materials fund to the credit of the district's instructional materials account as provided by Section 31.0212.

(b) A juvenile justice alternative education program under Section 37.011 is entitled to an allotment from the state instructional materials fund in an amount determined by the commissioner. The program shall use the allotment to purchase items listed in Subsection (c) for students enrolled in the program. The commissioner's determination under this subsection is final and may not be appealed.

(c) Subject to Subsection (d), funds allotted under this section may be used to:

(1) purchase:

(A) materials on the list adopted by the commissioner, as provided by Section 31.0231;

(B) instructional materials, regardless of whether the instructional materials are on the list adopted under Section 31.024;

(C) consumable instructional materials, including workbooks;

(D) instructional materials for use in bilingual education classes, as provided by Section 31.029;

(E) instructional materials for use in college preparatory courses under Section 28.014, as provided by Section 31.031;

(F) supplemental instructional materials, as provided by Section 31.035;

(G) state-developed open-source instructional materials, as provided by Subchapter B-1;

(H) instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011; and

(I) technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Section 31.0231 or any instructional materials purchased with an allotment under this section; and

(2) pay:

(A) for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use; and

(B) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

(d) Each year a school district shall use the district's allotment under this section to purchase, in the following order:

(1) instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level as required by Section 28.002; and

(2) any other instructional materials or technological equipment as determined by the district.

(d-1), (d-2) [Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 23, effective August 31, 2013.]

(e) Not later than May 31 of each school year, a school district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment under Subsection (a) on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination under this subsection is final.

(f) The commissioner may adopt rules as necessary to implement this section.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 23, effective July 19, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 26(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 26(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 31.0212. Instructional Materials Account.

(a) The commissioner shall maintain an instructional materials account for each school district. Each school year, the commissioner shall deposit in the account for each district the amount of the district's instructional materials allotment under Section 31.0211.

(b) The commissioner shall pay the cost of instructional materials requisitioned by a school district under Section 31.103 using funds from the district's instructional materials account.

(c) A school district may also use funds in the district's account to purchase electronic instructional materials or technological equipment. The district shall submit to the commissioner a request for funds for this purpose from the district's account. The commissioner shall adopt rules regarding the documentation a school district must submit to receive funds under this subsection.

(d) Money deposited in a school district's instructional materials account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium. At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

(e) The commissioner shall adopt rules as necessary to implement this section. The rules must include a requirement that a school district provide the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials allotment.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 23, effective July 19, 2011.)

Sec. 31.0213. Certification of Use of Instructional Materials Allotment.

Each school district shall annually certify to the commissioner that the district's instructional materials allotment has been used only for expenses allowed by Section 31.0211.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 23, effective July 19, 2011.)

Sec. 31.0214. Adjustment for High Enrollment Growth Districts.

(a) Each year the commissioner shall adjust the instructional materials allotment of school districts experiencing high enrollment growth. The commissioner shall establish a procedure for determining high enrollment growth districts eligible to receive an adjustment under this section and the amount of the instructional materials allotment those districts will receive.

(b) The commissioner may adopt rules as necessary to implement this section.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 23, effective July 19, 2011.)

Sec. 31.0215. Instructional Material Allotment Purchases.

(a) The commissioner shall, as early as practicable during each fiscal year, notify each school district and open-enrollment charter school of the estimated amount to which the district or charter school will be entitled under Section 31.0211 during the next fiscal year.

(b) The commissioner may allow a school district or open-enrollment charter school to place an order for instructional materials before the beginning of a fiscal year and to receive instructional materials before payment. The commissioner shall limit the cost of an order placed under this section to 80 percent of the estimated amount to which a school district or open-enrollment charter school is estimated to be entitled as provided by Subsection (a) and shall first credit any balance in a district or charter school instructional materials account to pay for an order placed under this section.

(c) The commissioner shall make payments for orders placed under this section as funds become available to the instructional materials fund and shall prioritize payment of orders placed under this section over reimbursement of purchases made directly by a school district or open-enrollment charter school.

(d) The commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. A publisher may decline to accept an order placed under this section.

(e) Chapter 2251, Government Code, does not apply to purchases of instructional materials under this section.

(f) The commissioner may adopt rules to implement this section.
(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 27, effective June 10, 2013.)

Sec. 31.022. Instructional Materials Review and Adoption.

(a) The State Board of Education shall adopt a review and adoption cycle for instructional materials for elementary grade levels, including prekindergarten, and secondary grade levels, for each subject in the required curriculum under Section 28.002. In adopting the cycle, the board:

(1) is not required to review and adopt instructional materials for all grade levels in a single year; and

(2) shall give priority to instructional materials in the following subjects:

(A) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required under Subchapter B, Chapter 39, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);

(B) foundation curriculum subjects for which the essential knowledge and skills have been substantially revised, including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n);

(C) foundation curriculum subjects not described by Paragraph (A) or (B), including career and technology courses that satisfy foundation curriculum requirements as provided by Section 28.002(n); and

(D) enrichment curriculum subjects.

(b) The board shall organize the cycle for subjects in the foundation curriculum so that not more than one-fourth of the instructional materials for subjects in the foundation curriculum are reviewed each biennium. The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the foundation curriculum every eight years. The adoption of instructional materials for a subject in the foundation curriculum may be extended beyond the eight-year period only if the content of instructional materials for a subject is sufficiently current.

(b-1) [Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 24, effective September 1, 2013.]

(c) The board shall adopt rules to provide for a full and complete investigation of instructional materials for each subject in the enrichment curriculum on a cycle the board considers appropriate.

(d) At least 12 months before the beginning of the school year for which instructional materials for a particular subject and grade level will be adopted under the review and adoption cycle, the board shall publish notice of the review and adoption cycle for those instructional materials. A request for production must allow submission of open-source instructional materials that are available for use by the state without charge on the same basis as instructional materials offered for sale.

(d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., ch. 1210]** A notice published under Subsection (d) must state that a publisher of an adopted textbook for a grade level other than prekindergarten must submit an electronic sample of the textbook as

required by Sections 31.027(a) and (b) and may not submit a print sample copy.

(d-1) **[2 Versions: As added by Acts 2011, 82nd Leg., 1st C.S., ch. 6]** A notice published under Subsection (d) must state that a publisher of adopted instructional materials for a grade level other than prekindergarten must submit an electronic sample of the instructional materials as required by Sections 31.027(a) and (b) and may not submit a print sample copy.

(e) The board shall designate a request for production of instructional materials in a subject area and grade level by the school year in which the instructional materials are intended to be made available in classrooms and not by the school year in which the board makes the request for production.

(f) The board shall amend any request for production issued for the purchase of instructional materials to conform to the instructional materials funding levels provided by the General Appropriations Act for the year of implementation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 445 (H.B. 188), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 3, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1210 (S.B. 391), § 1, effective September 1, 2011.)

Sec. 31.0221. Midcycle Review and Adoption of Instructional Materials.

(a) The State Board of Education shall adopt rules for the midcycle review and adoption of instructional material for a subject for which instructional materials are not currently under review by the board under Section 31.022. The rules must require:

(1) the publisher of the instructional material to pay a fee to the board to cover the cost of the midcycle review and adoption of the instructional material;

(2) the publisher of the instructional material to enter into a contract with the board concerning the instructional material for a term that ends at the same time as any contract entered into by the board for other instructional materials for the same subject and grade level; and

(3) a commitment from the publisher to provide the instructional material to school districts in the manner specified by the publisher, which may include:

(A) providing the instructional material to any district in a regional education service center area identified by the publisher; or

(B) providing a certain maximum number of instructional materials specified by the publisher.

(b) Sections 31.023 and 31.024 apply to instructional material adopted under this section. Section 31.027 does not apply to instructional material adopted under this section.

(Enacted by Acts 2007, 80th Leg., ch. 445 (H.B. 188), § 3, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 25, effective July 19, 2011.)

Sec. 31.0222. Budget-Balanced Cycle [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(3), effective July 19, 2011.

(Enacted by Acts 2007, 80th Leg., ch. 445 (H.B. 188), § 3, effective June 15, 2007.)

Sec. 31.023. Instructional Material List.

(a) For each subject and grade level, the State Board of Education shall adopt a list of instructional materials. The list includes each instructional material submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level in the student version of the instructional material, as well as in the teacher version of the instructional material, as determined by the State Board of Education under Section 28.002 and adopted under Section 31.024.

(a-1) The State Board of Education shall determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted. The board's determination under this subsection is final.

(b) Each instructional material on the list must be free from factual errors.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 445 (H.B. 188), § 4, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 26, effective July 19, 2011.)

Sec. 31.0231. Commissioner's List.

(a) The commissioner shall adopt a list of:

(1) electronic instructional material; and

(2) material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for:

(A) science in kindergarten through grade five; and

(B) personal financial literacy in kindergarten through grade eight.

(b) A school district may select material on the list adopted under Subsection (a) to be funded by the district's instructional materials allotment under Section 31.0211.

(c) Before the commissioner places material on the list adopted under Subsection (a), the State Board of Education must be given an opportunity to comment on the material. If the commissioner places material on the list adopted under Subsection (a), the State Board of Education may, not later than the 90th day after the date the material is placed on the list, require the commissioner to remove the material from the list. Material placed on the list adopted under Subsection (a):

(1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the material and experts in education technology;

(2) must satisfy criteria adopted for the purpose by commissioner rule; and

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

(d) The criteria adopted under Subsection (c)(2) must:

(1) include evidence of alignment with current research in the subject for which the material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section 28.002 for the subject for which the material is intended to be used and identify:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the material; and

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places material on the updated list, the requirements of Subsection (c) must be met.

(f) After notice to the commissioner explaining in detail the changes, the provider of material on the list adopted under Subsection (a) may update the navigational features or management system related to the material.

(g) After notice to the commissioner and a review by the commissioner, the provider of material on the list adopted under Subsection (a) may update the content of the material if needed to accurately reflect current knowledge or information.

(h) The commissioner shall adopt rules as necessary to implement this section. The rules must:

(1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers, as appropriate, and the imposition of a reasonable administrative penalty; and

(2) require public notice of an opportunity for the submission of material.

(Enacted by Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 4, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 885 (S.B. 290), § 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 27, effective July 19, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 885 (S.B. 290), § 4 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 31.024. Adoption by State Board of Education.

(a) By majority vote, the State Board of Education shall:

(1) place each submitted instructional material on the list adopted under Section 31.023; or

(2) reject instructional material submitted for placement on that list.

(b) Not later than December 1 of the year preceding the school year for which the instructional materials for a particular subject and grade level will be purchased under the cycle adopted by the board under Section 31.022, the board shall provide the list of adopted instructional materials to each school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 28, effective July 19, 2011.)

Sec. 31.0241. Adoption of Open-Source Instructional Materials.

(a) In this section, "eligible institution" means:

(1) a public institution of higher education that is designated as a research university or emerging research university under the higher education coordinating board's accountability system, or a private university located in this state that is a member of the Association of American Universities; or

(2) a public technical institute, as defined by Section 61.003.

(b) The State Board of Education shall place open-source instructional material for a secondary-level course submitted for adoption by an eligible institution on the list adopted under Section 31.023 if:

(1) the instructional material is written, compiled, or edited primarily by faculty of the eligible

institution who specialize in the subject area of the instructional material;

(2) the eligible institution identifies each contributing author;

(3) the appropriate department of the eligible institution certifies the instructional material for accuracy; and

(4) the eligible institution determines that the instructional material qualifies for placement on the list based on the extent to which the instructional material covers the essential knowledge and skills identified under Section 28.002 for the subject for which the instructional material is written and certifies that:

(A) for instructional material for a senior-level course, a student who successfully completes a course based on the instructional material will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or

(B) for instructional material for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the instructional material will be prepared for entry into the senior-level course.

(c) This section does not prohibit an eligible institution from submitting instructional material for placement on the list adopted under Section 31.023 through any other adoption process provided by this chapter.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 3, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 29, 30, effective July 19, 2011.)

Sec. 31.0242. Review of Open-Source Instructional Material.

Not later than the 90th day after the date open-source instructional material is submitted as provided by Section 31.0241, the State Board of Education may review the instructional material. The board shall:

(1) post with the list adopted under Section 31.023 comments made by the board regarding the open-source instructional material placed on the list; and

(2) distribute board comments to school districts.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 31, effective July 19, 2011.)

Sec. 31.025. Limitation on Cost [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(4), effective July 19, 2011.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 31.026. Contract; Price.

(a) The State Board of Education shall execute a contract for the purchase or licensing of each adopted instructional material.

(b) A contract must require the publisher to provide the number of instructional materials required by school districts in this state for the term of the contract, which must coincide with the board's adoption cycle.

(c) As applicable, a contract must provide for the purchase or licensing of instructional material at a specific price, which may not exceed the lowest price paid by any other state or any school or school district. The price must be fixed for the term of the contract.

(d) This section does not apply to open-source instructional material.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 32, effective July 19, 2011.)

Sec. 31.0261. Contracts for Printing of Open-Source Instructional Materials.

The State Board of Education may execute a contract for the printing of open-source instructional materials placed on the list adopted under Section 31.023. The contract must allow a school district to requisition printed copies of open-source instructional materials as provided by Section 31.103.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 33, effective July 19, 2011.)

Sec. 31.027. Information to School Districts; Electronic Sample.

(a) A publisher shall provide each school district and open-enrollment charter school with information that fully describes each of the publisher's submitted instructional materials. On request of a school district, a publisher shall provide an electronic sample of submitted instructional material.

(b) A publisher shall provide an electronic sample of each submitted instructional material to be maintained at each regional education service center.

(c) This section does not apply to open-source instructional material.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 6, effective September 1,

2009; am. Acts 2011, 82nd Leg., ch. 1210 (S.B. 391), §§ 2, 3, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 34(a), effective July 19, 2011.)

Sec. 31.028. Special Instructional Materials.

(a) The commissioner may purchase special instructional materials for the education of blind and visually impaired students in public schools. In addition, for a teacher who is blind or visually impaired, the commissioner shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each instructional material the teacher uses in the instruction of students. The teacher edition must be available at the same time the student instructional materials become available.

(b) The publisher of adopted instructional material shall provide the agency with computerized instructional material files for the production of Braille instructional materials or other versions of instructional materials to be used by students with disabilities, on request of the commissioner. A publisher shall arrange computerized instructional material files in one of several optional formats specified by the commissioner.

(c) The commissioner may also enter into agreements providing for the acceptance, requisition, and distribution of special instructional materials and instructional aids pursuant to 20 U.S.C. Section 101 et seq. for use by students enrolled in:

(1) public schools; or

(2) private nonprofit schools, if state funds, other than for administrative costs, are not involved.

(d) In this section:

(1) "Blind or visually impaired student" includes any student whose visual acuity is impaired to the extent that the student is unable to read the text in regularly adopted instructional material used in the student's class.

(2) "Special instructional material" means instructional material in Braille, large type or any other medium or any apparatus that conveys information to a student or otherwise contributes to the learning process.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 35, effective July 19, 2011.)

Sec. 31.029. Bilingual Instructional Materials.

(a) A school district shall purchase with the district's instructional materials allotment or otherwise acquire instructional materials for use in bilingual education classes.

(b) The commissioner shall adopt rules regarding the purchase of instructional materials under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 36, effective July 19, 2011.)

Sec. 31.030. Used Instructional Materials.

The State Board of Education shall adopt rules to ensure that used instructional materials sold to school districts and open-enrollment charter schools are not sample copies that contain factual errors. The rules may provide for the imposition of an administrative penalty in accordance with Section 31.151 against a seller of used instructional materials who knowingly violates this section.

(Enacted by Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 2, effective June 14, 2001; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 37, effective July 19, 2011.)

Sec. 31.031. College Preparatory Instructional Materials.

(a) A school district may purchase with the district's instructional materials allotment or otherwise acquire instructional materials for use in college preparatory courses under Section 28.014.

(b) The commissioner shall adopt rules regarding the purchase of instructional materials under this section.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 28(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 28(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 31.035. Supplemental Instructional Materials.

(a) Notwithstanding any other provision of this subchapter, the State Board of Education may adopt supplemental instructional materials that are not on the list adopted under Section 31.023. The State Board of Education may adopt supplemental instructional material under this section only if the instructional material:

(1) contains material covering one or more primary focal points or primary topics of a subject in the required curriculum under Section 28.002, as determined by the State Board of Education;

(2) is not designed to serve as the sole instructional material for a full course;

(3) meets applicable physical specifications adopted by the State Board of Education; and

(4) is free from factual errors.

(b) The State Board of Education shall identify the essential knowledge and skills identified under Section 28.002 that are covered by supplemental instructional material adopted by the board under this section.

(c) Supplemental instructional material is subject to the review and adoption cycle provisions, including the midcycle review and adoption cycle provisions, of this subchapter.

(d) A school district or open-enrollment charter school may requisition supplemental instructional material adopted under this section only if the district or school requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the list adopted under Section 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district or school is requisitioning the supplemental instructional materials.

(e) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(5), effective July 19, 2011.]

(f) A school district or open-enrollment charter school that requisitions supplemental instructional materials shall certify to the agency that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by the district or school, cover the essential knowledge and skills identified under Section 28.002 by the State Board of Education for the subject and grade level for which the district or school is requisitioning the supplemental instructional materials.

(g) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(5), effective July 19, 2011.]

(Enacted by Acts 2007, 80th Leg., ch. 445 (H.B. 188), § 5, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 38, 39, 67(5), effective July 19, 2011.)

SUBCHAPTER B-1
STATE-DEVELOPED OPEN-SOURCE INSTRUCTIONAL MATERIALS

Sec. 31.071. Purchase Authority.

(a) The commissioner may purchase state-developed open-source instructional materials in accordance with this subchapter.

(b) The commissioner:

(1) shall purchase any state-developed open-source instructional materials through a competitive process; and

(2) may purchase more than one state-developed open-source instructional material for a subject or grade level.

(c) State-developed open-source instructional material must be irrevocably owned by or licensed to the state for use in the applicable subject or grade level. The state must have unlimited authority to modify, delete, combine, or add content to the instructional material after purchase.

(d) The commissioner may issue a request for proposals for state-developed open-source instructional material:

(1) in accordance with the instructional material review and adoption cycle under Section 31.022; or

(2) at any other time the commissioner determines that a need exists for additional instructional material options.

(e) The costs of administering this subchapter and purchasing state-developed open-source instructional materials shall be paid from the state instructional materials fund, as determined by the commissioner.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 41, effective July 19, 2011.)

Sec. 31.072. Content Requirements.

(a) State-developed open-source instructional material must:

(1) be evaluated by teachers or other experts, as determined by the commissioner, before purchase; and

(2) meet the requirements for inclusion on the instructional material list adopted under Section 31.023.

(b) Following a curriculum revision by the State Board of Education, the commissioner shall require the revision of state-developed open-source instructional material relating to that curriculum. The commissioner may, at any time, require an additional revision of state-developed open-source instructional material or contract for ongoing revisions of state-developed open-source instructional material for a period not to exceed the period under Section 31.022 for which instructional material for that subject and grade level may be adopted. The commissioner shall use a competitive process to request proposals to revise state-developed open-source instructional material under this subsection.

(c) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(6), effective July 19, 2011.]

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts

2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 42, 67(6), effective July 19, 2011.)

Sec. 31.073. Selection by School District.

(a), (b) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(7), effective July 19, 2011.]

(c) Notwithstanding Section 31.022, a school district or open-enrollment charter school may adopt state-developed open-source instructional material at any time, regardless of the instructional material review and adoption cycle under that section.

(d) A school district or open-enrollment charter school may not be charged for selection of state-developed open-source instructional material in addition to instructional material adopted under Subchapter B.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 43, 44, 67(7), effective July 19, 2011.)

Sec. 31.074. Distribution.

(a) The commissioner shall provide for the distribution of state-developed open-source instructional materials in a manner consistent with distribution of instructional materials adopted under Subchapter B.

(b) The commissioner may use a competitive process to contract for printing or other reproduction of state-developed open-source instructional material on behalf of a school district or open-enrollment charter school. The commissioner may not require a school district or open-enrollment charter school to contract with a state-approved provider for the printing or reproduction of state-developed open-source instructional material.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 45, effective July 19, 2011.)

Sec. 31.075. Ownership; Licensing.

(a) State-developed open-source instructional material is the property of the state.

(b) The commissioner shall provide a license to each public school in the state, including a school district, an open-enrollment charter school, and a state or local agency educating students in any grade from prekindergarten through high school, to use and reproduce state-developed open-source instructional material.

(c) The commissioner may provide a license to use state-developed open-source instructional material to an entity not listed in Subsection (b). In determining the cost of a license under this subsection, the commissioner shall seek, to the extent feasible, to recover the costs of developing, revising, and distributing state-developed open-source instructional materials.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 46, effective July 19, 2011.)

Sec. 31.076. Rules; Finality of Decisions.

(a) The commissioner may adopt rules necessary to implement this subchapter.

(b) A decision by the commissioner regarding the purchase, revision, cost, or distribution of state-developed open-source instructional material is final and may not be appealed.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 47, effective July 19, 2011.)

Sec. 31.077. Adoption Schedule.

The commissioner shall develop a schedule for the adoption of state-developed open-source instructional materials under this subchapter. In developing the adoption schedule under this section, the commissioner shall consider:

(1) the availability of funds;

(2) the existing instructional material adoption cycles under Subchapter B; and

(3) the availability of instructional materials for development or purchase by the state.

(Enacted by Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 48, effective July 19, 2011.)

SUBCHAPTER C
LOCAL OPERATIONS

Sec. 31.101. Selection and Purchase of Instructional Materials by School Districts.

(a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:

(1) for a subject in the foundation curriculum, notify the State Board of Education of the instructional materials selected by the board of trustees or governing body for the following school year from the instructional materials list, including the list adopted under Section 31.0231; or

(2) for a subject in the enrichment curriculum:

(A) notify the State Board of Education of each instructional material selected by the board of trustees or governing body for the following school year from the instructional materials list, including the list adopted under Section 31.0231; or

(B) notify the State Board of Education that the board of trustees or governing body has selected instructional material that is not on the list.

(b) to (c-1) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(8), effective July 19, 2011.]

(d) For instructional material that is not on the list, a school district or open-enrollment charter school must use the instructional material for the period of the review and adoption cycle the State Board of Education has established for the subject and grade level for which the instructional material is used.

(e) A school district or open-enrollment charter school that selects subscription-based instructional material on the list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 may cancel the subscription and subscribe to new instructional material on the list adopted under Section 31.023 or electronic instructional material on the list adopted by the commissioner under Section 31.0231 before the end of the state contract period under Section 31.026 if:

(1) the district or school has used the instructional material for at least one school year; and

(2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the instructional material used by the district or school.

(f) The commissioner shall maintain an online requisition system for school districts to requisition instructional materials to be purchased with the district's instructional materials allotment.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 5, effective June 19, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 49, 50, 67(8), effective July 19, 2011.)

Sec. 31.1011. Textbook Credits [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(9), effective July 19, 2011.

(Enacted by Acts 2007, 80th Leg., ch. 445 (H.B. 188), § 6, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 6, effective June 19, 2009.)

Sec. 31.102. Title and Custody.

(a) Each instructional material purchased as provided by this chapter for a school district or an open-enrollment charter school is the property of the district or school.

(b) Subsection (a) applies to electronic instructional material only to the extent of any applicable licensing agreement.

(c) The board of trustees of a school district or the governing body of an open-enrollment charter school shall distribute printed instructional material to students in the manner that the board or governing body determines is most effective and economical.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 51, effective July 19, 2011.)

Sec. 31.103. Instructional Material Requisitions.

(a) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(10), effective July 19, 2011.]

(b) A school district or open-enrollment charter school shall make a requisition for instructional material using the online requisition program maintained by the commissioner not later than June 1 of each year. The publisher or manufacturer shall fill a requisition approved by the agency.

(c) In making a requisition under this section, a school district or open-enrollment charter school may requisition instructional materials on the list adopted under Section 31.023 for grades above the grade level in which a student is enrolled.

(d) A school district or open-enrollment charter school that selects open-source instructional material shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the district or school provides to each student:

(1) electronic access to the instructional material at no cost to the student; or

(2) printed copies of the portion of the instructional material that will be used in the course.

(e) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(10), effective July 19, 2011.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 129 (H.B. 992), § 2, effective September 1, 2001; enacted by Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 4, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 21, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 8, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 52, 53, 67(10), effective July 19, 2011.)

Sec. 31.1031. Shortage of Requisitioned Textbooks [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(11), effective July 19, 2011.
(Enacted by Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 5, effective June 14, 2001.)

Sec. 31.104. Distribution and Handling.

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials in a manner consistent with this chapter and rules adopted under this chapter.

(b) A school district or open-enrollment charter school may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of open-source instructional material.

(c) Except as provided by Subsection (g), a student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school.

(d) Each student, or the student's parent or guardian, is responsible for all instructional materials and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment forfeits the right to free instructional materials and technological equipment until all instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian. As provided by policy of the board of trustees or governing body, a school district or open-enrollment charter school may waive or reduce the payment requirement if the student is from a low-income family. The district or school shall allow the student to use instructional materials and technological equipment at school during each school day. If instructional materials or technological equipment is not returned in an acceptable condition or paid for, the district or school may withhold the student's records. A district or school may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma. The commissioner by rule shall adopt criteria for determining whether instructional materials and technological equipment are returned in an acceptable condition.

(e) The board of trustees of a school district may not require an employee of the district who acts in good faith to pay for instructional materials or technological equipment that is damaged, stolen, misplaced, or not returned. A school district employee may not waive this provision by contract or any other means, except that a district may enter into a written agreement with a school employee whereby the employee assumes financial responsibility for electronic instructional material or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use the electronic instructional material or technological equipment for personal business. Such a written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to agree to such an agreement as a condition of employment.

(f) [Blank.]

(g) At the end of the school year for which open-source instructional material that a school district or open-enrollment charter school does not intend to use for another student is distributed, the printed copy of the open-source instructional material becomes the property of the student to whom it is distributed.

(h) This section does not apply to an electronic copy of open-source instructional material.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 129 (H.B. 992), § 3, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 6, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 634 (H.B. 2072), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 116 (S.B. 370), § 2, effective May 17, 2007; am. Acts 2009, 81st Leg., ch. 366 (H.B. 1332), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 9, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 54, effective July 19, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 366 (H.B. 1332), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Sec. 31.105. Sale or Disposal of Instructional Materials and Technological Equipment.

(a) The board of trustees of a school district or governing body of an open-enrollment charter school may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the State Board of Education or the commissioner. The board of trustees or governing body may also sell electronic instructional ma-

terials and technological equipment owned by the district or school. Any funds received by a district or school from a sale authorized by this subsection must be used to purchase instructional materials and technological equipment allowed under Section 31.0211.

(b) The board of trustees of a school district or governing body of an open-enrollment charter school shall determine how the district or school will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

(c) The board of trustees of a school district or governing body of an open-enrollment charter school may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the State Board of Education if the board of trustees or governing body determines that the instructional material is not needed by the district or school and the board of trustees or governing body does not reasonably expect that the instructional material will be needed. A district or school must notify the commissioner of any instructional material the district or school disposes of under this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 55, effective July 19, 2011.)

Sec. 31.106. Use of Local Funds.

In addition to any instructional material selected under this chapter, a school district or open-enrollment charter school may use local funds to purchase any instructional materials.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 56, effective July 19, 2011.)

SUBCHAPTER D
ADMINISTRATIVE PENALTIES AND PENAL PROVISIONS

Sec. 31.151. Duties of Publishers and Manufacturers.

(a) A publisher or manufacturer of instructional materials:

(1) shall furnish any instructional material the publisher or manufacturer offers in this state at a price that does not exceed the lowest price at which the publisher offers that instructional material for adoption or sale to any state, public school, or school district in the United States;

(2) shall automatically reduce the price of instructional material sold for use in a school district or open-enrollment charter school to the extent that the price is reduced elsewhere in the United States;

(3) shall provide any instructional material or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the instructional material or ancillary item free of charge to any state, public school, or school district in the United States;

(4) shall guarantee that each copy of instructional material sold in this state is at least equal in quality to copies of that instructional material sold elsewhere in the United States and is free from factual error;

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in instructional materials or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials for use in this state;

(6) shall deliver instructional materials to a school district or open-enrollment charter school;

(7) shall, at the time an order for instructional materials is acknowledged, provide to school districts or open-enrollment charter schools an accurate shipping date for instructional materials that are back-ordered;

(8) shall guarantee delivery of instructional materials at least 10 business days before the opening day of school of the year for which the instructional materials are ordered if the instructional materials are ordered by a date specified in the sales contract; and

(9) shall submit to the State Board of Education an affidavit certifying any instructional material the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026.

(b) The State Board of Education may impose a reasonable administrative penalty against a publisher or manufacturer who knowingly violates Subsection (a). The board shall provide for a hearing to be held to determine whether a penalty is to be imposed and, if so, the amount of the penalty. The board shall base the amount of the penalty on:

(1) the seriousness of the violation;

(2) any history of a previous violation;

(3) the amount necessary to deter a future violation;

(4) any effort to correct the violation; and

(5) any other matter justice requires.

(c) A hearing under Subsection (b) shall be held according to rules adopted by the State Board of Education.

(d) A penalty collected under this section shall be deposited to the credit of the state instructional materials fund.

(e) An eligible institution, as defined by Section 31.0241(a), that offers open-source instructional materials under Section 31.0241 is not a publisher or manufacturer for purposes of this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 129 (H.B. 992), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 7, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.004, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 679 (H.B. 2488), § 10, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 57, effective July 19, 2011.)

Sec. 31.152. Accepting Rebate on Instructional Materials or Technological Equipment.

(a) A school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated as a trustee, administrator, or teacher.

(b) A school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

(1) is given to the person or the person's school;

(2) might reasonably tend to influence a trustee, administrator, or teacher in the selection of instructional material or technological equipment; and

(3) could not be lawfully purchased with state instructional materials funds.

(c) An offense under this section is a Class B misdemeanor.

(d) In this section, "gift, favor, or service" does not include:

(1) staff development, in-service, or teacher training; or

(2) ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 805 (H.B. 623), § 8, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), §§ 7, 8, effective June 19, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 58, 59, effective July 19, 2011.)

Sec. 31.153. Violation of Free Instructional Materials Law.

(a) A person commits an offense if the person knowingly violates any law providing for the purchase or distribution of free instructional materials for the public schools.

(b) An offense under this section is a Class C misdemeanor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 60, 61, effective July 19, 2011.)

SUBCHAPTER E
DISPOSITION OF TEXTBOOKS [REPEALED]

Sec. 31.201. Disposition of Textbooks [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(12), effective July 19, 2011.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 25, § 25.049, effective September 1, 2009.)

CHAPTER 32
COMPUTERS AND COMPUTER-RELATED EQUIPMENT

Subchapter A. Powers and Duties of State Board of Education Relating to Electronic Instructional Technology and Computer-Related Equipment

Section

Subchapter B. Statewide Development of Technology and Telecommunications

Subchapter C. Transfer of Data Processing Equipment to Students

SUBCHAPTER A
POWERS AND DUTIES OF STATE BOARD OF EDUCATION RELATING TO ELECTRONIC INSTRUCTIONAL TECHNOLOGY AND COMPUTER-RELATED EQUIPMENT

Sec. 32.001. Development of Long-Range Plan.

(a) The State Board of Education shall develop a long-range plan for:

(1) acquiring and using technology in the public school system;

(2) fostering professional development related to the use of technology for educators and others associated with child development;

(3) fostering computer literacy among public school students so that by the year 2000 each high school graduate in this state has computer-related skills that meet standards adopted by the board; and

(4) identifying and, through regional education service centers, distributing information on emerging technology for use in the public schools.

(b) The State Board of Education shall update as necessary the plan developed under Subsection (a).

(c) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board and other public agencies and institutions the State Board of Education considers appropriate, shall propose legislation and funding necessary to implement the plan developed under Subsection (a).

(d) In developing the plan, the State Board of Education must consider accessibility of technology to students with disabilities.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.002. Authority of School District.

A school district is not required by this subchapter to acquire or use technology that has been approved, selected, or contracted for by the State Board of Education or the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.003. Authority of Commissioner to Contract.

The commissioner may contract with developers of technology to supply technology for use by school districts throughout this state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.004. Fees.

The State Board of Education, on the commissioner's recommendation, may establish a reasonable fee for services provided under this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.005. [Expires December 1, 2016] Study on School District Network Capabilities.

(a) The commissioner shall conduct a study to assess the network capabilities of each school dis-

trict. The study must gather sufficient information to determine whether the network connections of a district and school campuses in the district meet the following targets:

(1) an external Internet connection to a campus's Internet service provider featuring a bandwidth capable of a broadband speed of at least 100 megabits per second for every 1,000 students and staff members; and

(2) an internal wide area network connection between the district and each of the school campuses in the district featuring a bandwidth capable of a broadband speed of at least one gigabit per second for every 1,000 students and staff members.

(b) The commissioner may solicit and accept gifts and grants from any public or private source to conduct the study. The commissioner may also cooperate or collaborate with national organizations conducting similar studies.

(c) The commissioner shall complete the study not later than December 1, 2015. This section expires December 1, 2016.

(Enacted by Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 24, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1386 (H.B. 1926), § 26 provides: "This Act applies beginning with the 2013-2014 school year."

SUBCHAPTER B
STATEWIDE DEVELOPMENT OF TECHNOLOGY AND TELECOMMUNICATIONS

Sec. 32.031. Purpose.

To prepare students for the 21st century, it is the policy of this state that a superior education should be available to all students under a thorough and efficient system of public education. Educational resources shall be devoted to the maximum extent possible to the instruction of students. To accomplish those purposes, public education must use, in a comprehensive manner, appropriate, accessible technology in all aspects of instruction, administration, and communication.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.032. Electronic Information System.

(a) The agency shall establish and maintain an accessible electronic information transfer system, as provided by State Board of Education policy, that is capable of transmitting information among school districts, regional education service centers, and other education-related entities and state agencies.

(b) The commissioner may contract with suppliers of computer hardware, software, or communications equipment or services to provide accessible goods or services to school districts, regional education service centers, or the agency. The State Board of Education by rule shall adopt standards for hardware, software, and communications equipment, training, and services supplied through contract under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.033. Integrated Telecommunications System.

(a) The agency, in coordination with institutions of higher education and other public or private entities, may maintain and expand, as needed, the telecommunications capabilities of school districts and regional education service centers. The agency shall design and implement a telecommunications system for distance learning throughout the state.

(b) To the extent necessary, the State Board of Education shall conduct feasibility studies related to accessible telecommunications capabilities of school districts and regional education service centers.

(c) According to priorities determined by the State Board of Education, the commissioner may contract with a public broadcasting system or another supplier of telecommunications equipment, programming, training, or services to provide equipment, programming, training, or services to school districts, regional education service centers, or the agency.

(d) In providing additional telecommunications capabilities under Subsection (a), the agency shall give priority to school districts with limited financial resources.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 23, effective September 1, 2003.)

Sec. 32.034. Center for Educational Technology.

(a) The commissioner, as provided by State Board of Education policy, may enter into an interagency contract with a public institution of higher education or a consortium of public institutions of higher education in this state to sponsor a center for educational technology under this section.

(b) The purpose of the center is to improve the quality and efficiency of the educational process through research, development, or site evaluation of:

(1) existing and new applications of technology specifically designed for educational applications; and

(2) educational applications of technology originally developed for commercial or other purposes.

(c) The membership of the center shall consist of public school educators, regional education service centers, institutions of higher education, nonprofit organizations, and private sector representatives. The State Board of Education shall establish membership policies for the center.

(d) The board of directors of the center shall be appointed by the State Board of Education and shall consist of:

(1) representatives of the center, including members of the public education system;

(2) a representative of each sponsoring institution of higher education; and

(3) the commissioner or the commissioner's representative.

(e) The board of directors shall:

(1) employ a director for the center;

(2) establish priorities for the center's activities; and

(3) report annually on the operation, projects, and fiscal affairs of the center to the State Board of Education and the membership of the center.

(f) The director is responsible for the center's activities.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.035. Demonstration Programs.

(a) The agency shall establish demonstration programs to:

(1) investigate the uses, effectiveness, and feasibility of technologies for education; and

(2) provide models for effective education using technology.

(b) The agency may design programs under Subsection (a) to encourage participation by and collaboration among school campuses, school districts, regional education service centers, the private sector, state and federal agencies, nonprofit organizations, and institutions of higher education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.036. Preview Centers and Training Programs.

The agency may establish and provide for the operation of a technology preview center and training program in each regional education service center to assist district and campus personnel in developing and maintaining the comprehensive use of appropriate technology in all aspects of instruction, administration, and communications.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 32.037. Computer Network Study Project [Expired].

Expired pursuant to Acts 1997, 75th Leg., ch. 1165 (S.B. 294), § 1, effective September 1, 1999.

(Enacted by Acts 1997, 75th Leg., ch. 1165 (S.B. 294), § 1, effective June 20, 1997.)

SUBCHAPTER C
TRANSFER OF DATA PROCESSING EQUIPMENT TO STUDENTS

Sec. 32.101. Definition.

In this subchapter, "data processing" has the meaning assigned by Section 2054.003, Government Code.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), art. 6, § 6.01, effective June 15, 2001.)

Sec. 32.102. Authority.

(a) As provided by this subchapter, a school district or open-enrollment charter school may transfer to a student enrolled in the district or school:

(1) any data processing equipment donated to the district or school, including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.905, Government Code;

(2) any equipment purchased by the district or school, to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district or school.

(b) A school district or open-enrollment charter school may accept:

(1) donations of data processing equipment for transfer under this subchapter; and

(2) any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), art. 6, § 6.01, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 9, § 9.020(f), effective September 1, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.02, effective September 28, 2011.)

Sec. 32.103. Eligibility; Preference.

(a) A student is eligible to receive data processing equipment under this subchapter only if the student

does not otherwise have home access to data processing equipment, as determined by the student's school district or open-enrollment charter school.

(b) In transferring data processing equipment to students, a school district or open-enrollment charter school shall give preference to educationally disadvantaged students.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), art. 6, § 6.01, effective June 15, 2001.)

Sec. 32.104. Requirements for Transfer.

Before transferring data processing equipment to a student, a school district or open-enrollment charter school must:

(1) adopt rules governing transfers under this subchapter, including provisions for technical assistance to the student by the district or school;

(2) determine that the transfer serves a public purpose and benefits the district or school; and

(3) remove from the equipment any offensive, confidential, or proprietary information, as determined by the district or school.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), art. 6, § 6.01, effective June 15, 2001.)

Sec. 32.105. Expenditure of Public Funds.

A school district or open-enrollment charter school may spend public funds to:

(1) purchase, refurbish, or repair any data processing equipment transferred to a student under this subchapter; and

(2) store, transport, or transfer data processing equipment under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), art. 6, § 6.01, effective June 15, 2001.)

Sec. 32.106. Return of Equipment.

(a) Except as provided by Subsection (b), a student who receives data processing equipment from a school district or open-enrollment charter school under this subchapter shall return the equipment to the district or school not later than the earliest of:

(1) five years after the date the student receives the equipment;

(2) the date the student graduates;

(3) the date the student transfers to another school district or open-enrollment charter school; or

(4) the date the student withdraws from school.

(b) Subsection (a) does not apply if, at the time the student is required to return the data processing equipment under that subsection, the district or school determines that the equipment has no marketable value.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), art. 6, § 6.01, effective June 15, 2001.)

SUBCHAPTER D TECHNOLOGY DEMONSTRATION SITES PROJECT [EXPIRED]

Sec. 32.151. Establishment of Project [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective August 31, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 2, effective September 1, 2009.)

Sec. 32.152. Project Administration [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective August 31, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 2, effective September 1, 2009.)

Sec. 32.153. Project Funding [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 2, effective August 31, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 14, §§ 14.01, 14.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 2, effective September 1, 2009.)

Sec. 32.154. District or School Selection [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective August 31, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 2, effective September 1, 2009.)

Sec. 32.155. Community Educational Pipeline Progress Team [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 3, effective August 31, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 3, effective September 1, 2009.)

Sec. 32.156. Electronic Device Retention [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective August 31, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective September 1, 2009.)

Sec. 32.157. Project Evaluation; Expiration [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective August 31, 2013.
(Enacted by Acts 2003, 78th Leg., ch. 834 (S.B. 396), § 1, effective June 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 14, § 14.02, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 4, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 47, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 6, effective September 1, 2013.)

SUBCHAPTER E
[EXPIRES SEPTEMBER 1, 2015]
TECHNOLOGY LENDING PROGRAM GRANTS

Sec. 32.201. [Expires September 1, 2015] Establishment of Program.

(a) The commissioner may establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to loan students equipment necessary to access and use electronic instructional materials.

(b) A school district or an open-enrollment charter school may apply to the commissioner to participate in the grant program. In awarding grants under this subchapter for each school year, the commissioner shall consider:

(1) the availability of existing equipment to students in the district or charter school; and

(2) other funding available to the district or charter school.

(c) The commissioner may determine the terms of a grant awarded under this section, including limits on the grant amount and approved uses of grant funds.

(d) The commissioner may recover funds not used in accordance with the terms of a grant from any state funds otherwise due to the school district or open-enrollment charter school.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 62, effective July 19, 2011.)

Sec. 32.202. [Expires September 1, 2015] Funding.

(a) The commissioner may use not more than $10 million from the state instructional materials fund under Section 31.021 each state fiscal biennium or a different amount determined by appropriation to administer a grant program established under this subchapter.

(b) The cost of administering a grant program under this subchapter must be paid from funds provided under Subsection (a).
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 62, effective July 19, 2011.)

Sec. 32.203. [Expires September 1, 2015] Use of Grant Funds.

(a) A school district or open-enrollment charter school may use a grant awarded under Section 32.201 or other local funds to purchase, maintain, and insure equipment for a technology lending program.

(b) Equipment purchased by a school district or open-enrollment charter school with a grant awarded under Section 32.201 is the property of the district or charter school.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 62, effective July 19, 2011.)

Sec. 32.204. [Expires September 1, 2015] Review of Program.

Not later than January 1, 2013, the commissioner shall review the grant program established under this subchapter and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report regarding the grants awarded under this subchapter.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 62, effective July 19, 2011.)

Sec. 32.205. [Expires September 1, 2015] Expiration.

This subchapter expires September 1, 2015.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 62, effective July 19, 2011.)

SUBCHAPTER F
EDUCATION INTERNET PORTAL

Sec. 32.251. Definition [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.
(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.151).)

Sec. 32.252. Education Internet Portal; General Purposes [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.152); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 48, effective June 19, 2009.)

Sec. 32.253. Administration.

(a) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.]

(b) The Department of Information Resources shall:

(1) host the portal through the state electronic Internet portal project;

(2) organize the portal in a manner that simplifies portal use and administration;

(3) provide any necessary technical advice to the agency, including advice relating to equipment required in connection with the portal;

(4) provide a method for maintaining the information made available through the portal; and

(5) cooperate with the agency in linking the agency's Internet site to the portal.

(c), (d) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.]

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 4.007, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.153); am. Acts 2011, 82nd Leg., ch. 973 (H.B. 1504), § 2, effective June 17, 2011.)

Sec. 32.254. On-Line Courses [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.154).)

Sec. 32.255. On-Line Course Scholarships [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.155).)

Sec. 32.256. On-Line Textbooks [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.156).)

Sec. 32.257. School District Administrative Software and Electronic Tools [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(14), effective July 19, 2011.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.157).)

Sec. 32.258. Student Assessment Data; Data Portal.

(a) The agency shall establish and maintain a student assessment data portal for use by school districts, teachers, parents, students, and public institutions of higher education. The agency shall establish a secure, interoperable system to be implemented through the portal under which:

(1) a student or the student's parent or other person standing in parental relationship can easily access the student's individual assessment data;

(2) an authorized employee of a school district, including a district teacher, can readily access individual assessment data of district students for use in developing strategies for improving student performance; and

(3) an authorized employee of a public institution of higher education can readily access individual assessment data of students applying for admission for use in developing strategies for improving student performance.

(b) The system established under Subsection (a) shall provide a means for a student or the student's parent or other person standing in parental relationship to track the student's progress on assessment instrument requirements for graduation.

(c) The agency shall establish an interoperable system to be implemented through the portal under which general student assessment data is easily accessible to the public.

(d) Student assessment data provided under this section must:

(1) be available on or before the first instructional day of the school year following the year in which the data is collected; and

(2) include student performance data on assessment instruments over multiple years, beginning with the 2007-2008 school year, including any data indicating progress in student achievement.

(e) Each system established under this section must permit comparisons of student performance information at the classroom, campus, district, and state levels.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.158); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 49, effective June 19, 2009.)

Sec. 32.259. Fees [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(15), effective July 19, 2011.

(Enacted by Acts 2003, 78th Leg., ch. 1216 (S.B. 1152), § 16, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.159).)

Sec. 32.260. Vendor Participation [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(15), effective July 19, 2011.

(Acts 2003, 78th Leg., ch. 1216, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.160).)

Sec. 32.261. Funding.

(a) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(15), effective July 19, 2011.]

(b) To the extent possible considering other statutory requirements, the commissioner and agency shall encourage the use of textbook funds and technology allotment funds under Section 32.005 in a manner that facilitates the development and use of the portal.

(Acts 2003, 78th Leg., ch. 1216, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), §§ 17.001(13), 17.002(2), effective September 1, 2007 (renumbered from Sec. 32.161); am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.009, effective September 1, 2011.)

Sec. 32.262. Statewide Licensing and Contracting [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(15), effective July 19, 2011.

(Acts 2003, 78th Leg., ch. 1216, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.162).)

Sec. 32.263. Outreach and Training [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(15), effective July 19, 2011.

(Acts 2003, 78th Leg., ch. 1216, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(13), effective September 1, 2007 (renumbered from Sec. 32.163).)

SUBCHAPTER H
COMPUTER LENDING PILOT PROGRAM
[REPEALED]

Sec. 32.351. Establishment of Pilot Program [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(16), effective July 19, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 571 (S.B. 2178), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 9, effective June 19, 2009.)

Sec. 32.352. Pilot Program Administration [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(16), effective July 19, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 571 (S.B. 2178), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 9, effective June 19, 2009.)

Sec. 32.353. Eligible Schools [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(16), effective July 19, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 571 (S.B. 2178), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 9, effective June 19, 2009.)

Sec. 32.354. Annual Report [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(16), effective July 19, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 571 (S.B. 2178), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 9, effective June 19, 2009.)

Sec. 32.355. Expiration [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 67(16), effective July 19, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 571 (S.B. 2178), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 9, effective June 19, 2009.)

CHAPTER 33
SERVICE PROGRAMS AND EXTRACURRICULAR ACTIVITIES

Subchapter A. School Counselors and Counseling Programs

Subchapter B. Libraries

Subchapter C. Missing Child Prevention and Identification Programs

Subchapter D. Extracurricular Activities

Subchapter E. Communities in Schools Program

Subchapter F. Safety Regulations for Certain Extracurricular Activities

Subchapter G. Expanded Learning Opportunities Council

Subchapter Z. Miscellaneous Provisions

SUBCHAPTER A
SCHOOL COUNSELORS AND COUNSELING PROGRAMS

Sec. 33.001. Applicability of Subchapter [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 6.005(b), effective September 1, 2003.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1223 (S.B. 158), § 2, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1487 (S.B. 518), § 1, effective June 17, 2001.)

Sec. 33.002. Certified School Counselor.

(a) From funds appropriated for the purpose or other funds that may be used for the purpose, the commissioner shall distribute funds for programs under this subchapter. In distributing those funds, the commissioner shall give preference to a school district that received funds under this subsection for the preceding school year and then to the districts that have the highest concentration of students at risk of dropping out of school, as described by Section 29.081. To receive funds for the program, a school district must apply to the commissioner. For each school year that a school district receives funds under this subsection, the district shall allocate an amount of local funds for school guidance and counseling programs that is equal to or greater than the amount of local funds that the school district allocated for that purpose during the preceding school year. This section applies only to a school district that receives funds as provided by this subsection.

(b) A school district with 500 or more students enrolled in elementary school grades shall employ a school counselor certified under the rules of the State Board for Educator Certification for each elementary school in the district. A school district shall employ at least one school counselor for every 500 elementary school students in the district.

(c) A school district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by:

(1) employing a part-time school counselor certified under the rules of the State Board for Educator Certification;

(2) employing a part-time teacher certified as a school counselor under the rules of the State Board for Educator Certification; or

(3) entering into a shared services arrangement agreement with one or more school districts to share a school counselor certified under the rules of the State Board for Educator Certification.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.005(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 39, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), §§ 27, 28, effective June 14, 2013.)

Sec. 33.003. Parental Consent.

The board of trustees of each school district shall adopt guidelines to ensure that written consent is obtained from the parent, legal guardian, or person entitled to enroll the student under Section 25.001(j) for the student to participate in those activities for which the district requires parental consent.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.004. Parental Involvement.

(a) Each school shall obtain, and keep as part of the student's permanent record, written consent of the parent or legal guardian as required under Section 33.003. The consent form shall include specific information on the content of the program and the types of activities in which the student will be involved.

(b) Each school, before implementing a comprehensive and developmental guidance and counseling program, shall annually conduct a preview of the program for parents and guardians. All materials, including curriculum to be used during the year, must be available for a parent or guardian to preview during school hours. Materials or curriculum not included in the materials available on the campus for preview may not be used.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.005. Developmental Guidance and Counseling Programs.

A school counselor shall work with the school faculty and staff, students, parents, and the community to plan, implement, and evaluate a developmental guidance and counseling program. The school counselor shall design the program to include:

(1) a guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives;

(2) a responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's

continued educational, career, personal, or social development at risk;

(3) an individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development; and

(4) system support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1487 (S.B. 518), § 2, effective June 17, 2001; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 29, effective June 14, 2013.)

Sec. 33.006. School Counselors; General Duties.

(a) The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities.

(b) In addition to a school counselor's responsibility under Subsection (a), the school counselor shall:

(1) participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students:

(A) who are at risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;

(B) who are in need of modified instructional strategies; or

(C) who are gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged;

(2) consult with a student's parent or guardian and make referrals as appropriate in consultation with the student's parent or guardian;

(3) consult with school staff, parents, and other community members to help them increase the effectiveness of student education and promote student success;

(4) coordinate people and resources in the school, home, and community;

(5) with the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans; and

(6) deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1487 (S.B. 518), § 3, effective June 17, 2001; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), §§ 30, 31, effective June 14, 2013.)

Sec. 33.007. [2 Versions: Effective until the beginning of the 2014-2015 school year] Counseling Regarding Higher Education.

(a) Each school counselor at an elementary, middle, or junior high school, including an open-enrollment charter school offering those grades, shall advise students and their parents or guardians regarding the importance of postsecondary education, coursework designed to prepare students for postsecondary education, and financial aid availability and requirements.

(b) During the first school year a student is enrolled in a high school or at the high school level in an open-enrollment charter school, and again during each year of a student's enrollment in high school or at the high school level, a school counselor shall provide information about postsecondary education to the student and the student's parent or guardian. The information must include information regarding:

(1) the importance of postsecondary education;

(2) the advantages of earning an endorsement and a performance acknowledgment and completing the distinguished level of achievement under the foundation high school program under Section 28.025;

(3) the disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;

(4) financial aid eligibility;

(5) instruction on how to apply for federal financial aid;

(6) the center for financial aid information established under Section 61.0776;

(7) the automatic admission of certain students to general academic teaching institutions as provided by Section 51.803;

(8) the eligibility and academic performance requirements for the TEXAS Grant as provided by Subchapter M, Chapter 56; and

(9) the availability of programs in the district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs.

(c) At the beginning of grades 10 and 11, a school counselor certified under the rules of the State Board for Educator Certification shall explain the requirements of automatic admission to a general academic teaching institution under Section 51.803

to each student enrolled in a high school or at the high school level in an open-enrollment charter school who has a grade point average in the top 25 percent of the student's high school class.
(Enacted by Acts 2001, 77th Leg., ch. 1223 (S.B. 158), § 1, effective June 15, 2001; am. Acts 2007, 80th Leg., ch. 973 (S.B. 282), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1342 (S.B. 175), § 4, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 32, effective June 14, 2013.)

Sec. 33.007. [2 Versions: Effective beginning with the 2014-2015 school year] Counseling Regarding Postsecondary Education.

(a) Each school counselor at an elementary, middle, or junior high school, including an open-enrollment charter school offering those grades, shall advise students and their parents or guardians regarding the importance of postsecondary education, coursework designed to prepare students for postsecondary education, and financial aid availability and requirements.

(b) During the first school year a student is enrolled in a high school or at the high school level in an open-enrollment charter school, and again during each year of a student's enrollment in high school or at the high school level, a school counselor shall provide information about postsecondary education to the student and the student's parent or guardian. The information must include information regarding:

(1) the importance of postsecondary education;

(2) the advantages of earning an endorsement and a performance acknowledgment and completing the distinguished level of achievement under the foundation high school program under Section 28.025;

(3) the disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;

(4) financial aid eligibility;

(5) instruction on how to apply for federal financial aid;

(6) the center for financial aid information established under Section 61.0776;

(7) the automatic admission of certain students to general academic teaching institutions as provided by Section 51.803;

(8) the eligibility and academic performance requirements for the TEXAS Grant as provided by Subchapter M, Chapter 56; and

(9) the availability of programs in the district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs.

(c) At the beginning of grades 10 and 11, a school counselor certified under the rules of the State Board for Educator Certification shall explain the requirements of automatic admission to a general academic teaching institution under Section 51.803 to each student enrolled in a high school or at the high school level in an open-enrollment charter school who has a grade point average in the top 25 percent of the student's high school class.
(Enacted by Acts 2001, 77th Leg., ch. 1223 (S.B. 158), § 1, effective June 15, 2001; am. Acts 2007, 80th Leg., ch. 973 (S.B. 282), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1342 (S.B. 175), § 4, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 29(a), effective beginning with the 2014-2015 school year; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 30(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 32, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 30(b) provides: "This section applies beginning with the 2014-2015 school year."

SUBCHAPTER B
LIBRARIES

Sec. 33.021. Library Standards.

The Texas State Library and Archives Commission, in consultation with the State Board of Education, shall adopt standards for school library services. A school district shall consider the standards in developing, implementing, or expanding library services.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.022. Contract with County or Municipality.

(a) A school district may enter into contracts with a county or municipality in which the district is located to provide joint library facilities.

(b) The board of trustees of the school district and the commissioners court of the county or governing body of the municipality must conduct public hearings before entering into a contract under this section. The hearings may be held jointly.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
MISSING CHILD PREVENTION AND IDENTIFICATION PROGRAMS

Sec. 33.051. Definitions.

In this subchapter:

(1) "Child" and "minor" have the meanings assigned by Section 101.003, Family Code.

(2) "Missing child" means a child whose whereabouts are unknown to the legal custodian of the child and:

(A) the circumstances of whose absence indicate that the child did not voluntarily leave the care and control of the custodian and that the taking of the child was not authorized by law; or

(B) the child has engaged in conduct indicating a need for supervision under Section 51.03(b)(3), Family Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.052. Missing Child Prevention and Identification Programs.

(a) The board of trustees of a school district or of a private school may participate in missing child prevention and identification programs, including fingerprinting and photographing as provided by this subchapter.

(b) The board of trustees of a school district may delegate responsibility for implementation of the program to the district's school administration or to the district's community education services administration.

(c) The chief administrative officer of each private primary or secondary school may participate in the programs and may contract with the regional education service center in which the school is located for operation of all or any part of the program through a shared services arrangement.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.053. Fingerprints of Children.

(a) A missing child prevention and identification program may include a procedure for taking the fingerprints of each student registered in the school whose parent or legal custodian has consented in writing to the fingerprinting. Fingerprints obtained under this section may be used only for the identification and location of a missing child.

(b) The board of trustees of a school district or the chief administrative officer of a private school may establish a reasonable fee to cover the costs of fingerprinting not provided by volunteer assistance. The fee may not exceed $3 for each child fingerprinted. If the school charges a fee, the school may waive all or a portion of the costs of fingerprinting for educationally disadvantaged children.

(c) A representative of a law enforcement agency of the county or the municipality in which the school district is located or of the Department of Public Safety, or a person trained in fingerprinting technique by a law enforcement agency or the Department of Public Safety, shall make one complete set of fingerprints on a fingerprint card for each child participating in the program. If the school requests, the Department of Public Safety may provide fingerprint training to persons designated by the school.

(d) A fingerprint card shall include a description of the child, including the name, address, date and place of birth, color of eyes and hair, weight, and sex of the child.

(e) Except as provided by Section 33.054(b), the fingerprint card and other materials developed under this subchapter shall be made part of the school's permanent student records.

(f) A state agency, law enforcement agency, or other person may not retain a copy of a child's fingerprints taken under this program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.054. Photographs of Children.

(a) A participating school shall retain a current photograph of each child registered in the school whose parent or legal custodian has consented in writing. Photographs retained under this section may be used only for the identification and location of a missing child.

(b) The photograph shall be retained by the participating school until the photograph is replaced by a subsequently made photograph under this section or until the expiration of three years, whichever is earlier.

(c) On the request of a parent or legal custodian of a missing child, or of a peace officer who is engaged in the investigation of a missing child, a participating school may give to the parent, legal custodian, or peace officer a copy of that child's photograph held by the school under this section. Except as provided by this subsection, a photograph held under this section may not be given to any person.

(d) A participating school may charge a fee for making and keeping records of photographs under this section. If the school charges a fee, the school may waive this fee for educationally disadvantaged children.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.055. Fingerprints and Photographs Not Used As Evidence.

(a) A child's fingerprint card made under Section 33.053 or a photograph of a child made or kept under Section 33.054 may not be used as evidence in any criminal proceeding in which the child is a defendant or in any case under Title 3, Family Code, in which the child is alleged to have engaged in delinquent conduct or in conduct indicating a need for supervision.

(b) This subchapter does not apply to the use by a law enforcement agency for an official purpose of a photograph published in a school annual.

(c) This subchapter does not prevent the use of a videotape or photograph taken to monitor the activity of students for disciplinary reasons or in connection with a criminal prosecution or an action under Title 3, Family Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.056. Liability for Nonperformance.

A person is not liable in any suit for damages for negligent performance or nonperformance of any requirement of this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.057. Destruction of Fingerprints and Photographs.

The agency shall adopt rules relating to the destruction of fingerprints and photographs made or kept under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER D
EXTRACURRICULAR ACTIVITIES

Sec. 33.081. Extracurricular Activities.

(a) The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week. The rules must, to the extent possible, preserve the school day for academic activities without interruption for extracurricular activities. In scheduling those activities and practices, a school district must comply with the rules of the board.

(b) A student enrolled in a school district in this state or who participates in an extracurricular activity or a University Interscholastic League competition is subject to school district policy and University Interscholastic League rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of the board of trustees of the district.

(c) A student who is enrolled in a school district in this state or who participates in a University Interscholastic League competition shall be suspended from participation in any extracurricular activity sponsored or sanctioned by the school district or the University Interscholastic League after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described by Subsection (d-1). A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Subsection (d) are met. A suspension does not last beyond the end of a school year. For purposes of this subsection, "grade evaluation period" means:

(1) the six-week grade reporting period; or

(2) the first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

(d) Until the suspension is removed under this subsection or the school year ends, a school district shall review the grades of a student suspended under Subsection (c) at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described by Subsection (d-1), is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades.

(d-1) Subsections (c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. The agency shall review on a biennial basis courses described by this subsection to determine if other courses should be excluded from the requirement that a student be suspended from participation in an extracurricular activity under Subsection (c). Not later than January 1 of each odd-numbered year, the agency shall report the findings under this subsection to the legislature.

(e) Suspension of a student with a disability that significantly interferes with the student's ability to meet regular academic standards must be based on the student's failure to meet the requirements of the

student's individualized education program. The determination of whether a disability significantly interferes with a student's ability to meet regular academic standards must be made by the student's admission, review, and dismissal committee. For purposes of this subsection, "student with a disability" means a student who is eligible for a district's special education program under Section 29.003(b).

(f) A student suspended under this section may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance.

(g) An appeal to the commissioner is not a contested case under Chapter 2001, Government Code, if the issues presented relate to a student's eligibility to participate in extracurricular activities, including issues related to the student's grades or the school district's grading policy as applied to the student's eligibility. The commissioner may delegate the matter for decision to a person the commissioner designates. The decision of the commissioner or the commissioner's designee in a matter governed by this subsection may not be appealed except on the grounds that the decision is arbitrary or capricious. Evidence may not be introduced on appeal other than the record of the evidence before the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1482 (H.B. 3573), § 2, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1327 (S.B. 1517), § 1, effective June 15, 2007.)

Sec. 33.0811. School District Policy on Absences to Participate in Extracurricular Activities.

(a) Notwithstanding Section 33.081(a), the board of trustees of a school district may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity under Section 33.081 may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the district or the University Interscholastic League or by an organization sanctioned by resolution of the board of trustees of the district.

(b) A policy adopted by the board of trustees of a district under this section:

(1) prevails over a conflicting policy adopted under Section 33.081(a); and

(2) must permit a student to be absent from class at least 10 times during the school year.

(Enacted by Acts 1999, 76th Leg., ch. 1482 (H.B. 3573), § 3, effective June 19, 1999.)

Sec. 33.0812. Scheduling Extracurricular Activities Prohibited in Certain Circumstances.

(a) The State Board of Education by rule shall prohibit participation in a University Interscholastic League area, regional, or state competition:

(1) on Monday through Thursday of the school week in which the primary administration of assessment instruments under Section 39.023(a), (c), or (*l*) occurs; or

(2) if the primary administration of the assessment instruments is completed before Thursday of the school week, beginning on Monday and ending on the last school day on which the assessment instruments are administered.

(b) The commissioner shall determine the school week during the school year in which the primary administration of assessment instruments occurs for purposes of Subsection (a).

(c) The commissioner shall adopt rules to provide the University Interscholastic League with a periodic calendar of dates reserved for testing for planning purposes under this section. The periodic calendar must be provided at least every three years on or before May 1 of the year preceding the three-year cycle of reserved testing dates.

(d) In adopting rules under this section, the commissioner shall:

(1) include a procedure for changing, in exceptional circumstances, testing dates reserved under the periodic calendar;

(2) define circumstances that constitute exceptional circumstances under Subdivision (1) as unforeseen events, including a natural disaster, severe weather, fire, explosion, or similar circumstances beyond the control of school districts or the agency; and

(3) establish criteria for determining whether a University Interscholastic League area, regional, or state competition must be canceled if that event conflicts with a changed testing date.

(e) This section does not apply to testing dates on which assessment instruments are administered only to students retaking assessment instruments.

(Enacted by Acts 2005, 79th Leg., ch. 812 (S.B. 658), § 1, effective June 17, 2005.)

Sec. 33.082. Extracurricular Activities; Use of Discriminatory Athletic Club.

(a) An extracurricular activity sponsored or sanctioned by a school district, including an athletic event or an athletic team practice, may not take place at an athletic club located in the United States that denies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the race, color, religion, creed, national origin, or sex of the person.

(b) In this section, "athletic club" means an entity that provides sports or exercise equipment or facilities to its customers or members or to the guests of its customers or members.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.083. Interscholastic Leagues.

(a) The rules and procedures of an organization sanctioning or conducting interscholastic competition, including rules providing penalties for rules violations by school district personnel, must be consistent with State Board of Education rules.

(b) The University Interscholastic League is a part of The University of Texas at Austin and must submit its rules and procedures to the commissioner for approval or disapproval. The funds belonging to the University Interscholastic League shall be deposited with The University of Texas at Austin for the benefit of the league and shall be subject to audits by The University of Texas at Austin, The University of Texas System, and the state auditor. Copies of annual audits shall be furnished, on request, to members of the legislature.

(c) The State Board of Education may seek an injunction to enforce this section.

(d) The University Interscholastic League shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the University Interscholastic League during the preceding fiscal year. The form of the annual report and the reporting time are as provided by the General Appropriations Act.

(e) **[Expires September 1, 2015]** The University Interscholastic League is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The University Interscholastic League shall be reviewed during the period in which state agencies abolished in 2015 are reviewed. The University Interscholastic League shall pay the costs incurred by the Sunset Advisory Commission in performing the review under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the University Interscholastic League shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2015.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1482 (H.B. 3573), § 4, effective June 19, 1999; am. Acts 2013, 83rd Leg., ch. 1279 (H.B. 1675), § 1.04, effective June 14, 2013.)

Sec. 33.0831. University Interscholastic League Rules: Fiscal Impact Statement.

(a) The legislative council of the University Interscholastic League may not take final action on a new or amended rule that would result in additional costs for a member school unless a fiscal impact statement regarding the rule has been completed in accordance with this section.

(b) For purposes of Subsection (a), final action by the legislative council means:

(1) submitting a rule to school superintendents, if the submission is required under the legislative council's procedures; or

(2) submitting a rule approved by the council to the commissioner for the commissioner's approval under Section 33.083(b), if the rule does not require submission to school superintendents under the legislative council's procedures.

(c) A fiscal impact statement regarding a rule must include:

(1) a projection of the costs to member schools of complying with the rule during the five-year period following the effective date of the rule; and

(2) an explanation of the methodology used to analyze the fiscal impact of the rule and determine the costs projection required by Subdivision (1).

(d) If a fiscal impact statement is prepared for a rule, a copy of the statement must be attached to the rule when it is submitted for approval to school superintendents, if applicable, and when it is submitted to the commissioner for approval.
(Enacted by Acts 2011, 82nd Leg., ch. 966 (H.B. 1286), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 966 (H.B. 1286), § 2 provides: "Section 33.0831, Education Code, as added by this Act, applies only to a rule on which the legislative council of the University Interscholastic League takes final action on or after the effective date of this Act [September 1, 2011]."

Sec. 33.084. Interscholastic League Advisory Council.

(a) The interscholastic league advisory council is composed of:

(1) two members of the State Board of Education appointed by the chair of the board;

(2) a member of the house of representatives appointed by the speaker of the house;

(3) a member of the senate appointed by the lieutenant governor;

(4) two members of the legislative council of the University Interscholastic League appointed by the chairman of the council;

(5) two public school board members appointed by the commissioner; and

(6) three members of the public appointed by the commissioner.

(b) A member of the advisory council serves at the will of the member's appointing authority.

(c) In appointing public members to the advisory council, the commissioner shall give special consideration to students, parents of students, and teachers.

(d) The advisory council shall select a chair from among its members and shall meet at the call of the chair.

(e) The advisory council shall review the rules of the University Interscholastic League and shall make recommendations relating to the rules to the governor, the legislature, the legislative council of the University Interscholastic League, and the State Board of Education.

(f) A member of the advisory council may not receive compensation but is entitled to reimbursement from the University Interscholastic League for transportation expenses and the per diem allowance for state employees in accordance with the General Appropriations Act.

(g) The advisory council shall study:

(1) University Interscholastic League policy with respect to the eligibility of students to participate in programs;

(2) geographic distribution of University Interscholastic League resources and programs; and

(3) gender equity.

(h) An action of the University Interscholastic League relating to the provision of additional programs of school districts may not be taken pending submission of a final report by the advisory council. (Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.085. Authority of University Interscholastic League Regarding Activities Involving Sports Officials.

(a) In this section:

(1) "League" means the University Interscholastic League.

(2) "Sports official" means a person who officiates, judges, or in any manner enforces contest rules in any official capacity with respect to and during the course of an interscholastic athletic team competition and who is a member of a league-recognized local chapter or association of sports officials. The term includes a referee, umpire, linesman, judge, or any other person similarly involved in supervising competitive play. The term does not include a league board member or a league official who is acting in an official capacity to supervise, administer, or enforce the league constitution or league contest rules.

(b) The league may require a sports official, as a condition of eligibility to officiate a contest sponsored by the league, to:

(1) be registered with the league and comply with the registration requirements of Subsection (c);

(2) have completed initial and continuing education programs regarding league rules;

(3) be a member in good standing of a local chapter or association of sports officials recognized by the league for that purpose; and

(4) agree to abide by league rules, including fee schedules and travel reimbursement guidelines for payment by school districts or open-enrollment charter schools to a sports official.

(c) In registering with the league, a sports official must be required to provide directory information required by the league and submit to a criminal background check.

(d) The league may not charge a sports official who completes a program under Subsection (b)(2) a fee for more than one program described by Subsection (b)(2).

(e) The league may charge and collect a registration fee only to defray the cost of registering sports officials and shall post the amount of the fee on the league's Internet website and make the information available at other places the league determines appropriate. The amount of the fee may not exceed the amount reasonably determined by the league to be necessary to cover the cost of administering registration.

(f) The league may revoke or suspend the league registration of a sports official determined by the league to have violated the provisions of the league constitution or contest rules governing sports officials or other league policy applicable to sports officials. Before the league may take action to revoke or suspend a sports official's registration, the league shall notify and consult with the local chapter or association of sports officials of which the sports official is a member. The local chapter or association may, on or before the 15th day after the date notice is received from the league, take action to adjudicate the alleged violation. If after the 15th day after the date notice is received from the league the local chapter or association has failed to take action against the sports official or takes action that the league finds to be insufficient, the league may take action against the sports official. The league shall adopt rules to provide a sports official with the opportunity for an appeals process before the league revokes or suspends the sports official's registration. In adopting rules under this subsection, the league shall make a determination of the actions and sub-

sequent sanctions that would be considered sufficient under this subsection.

(g) The league may not sponsor or organize or attempt to sponsor or organize any association of sports officials in which the majority of the membership is composed of sports officials who officiate team sports.

(h) The league may set rates or fee schedules payable by a school district or open-enrollment charter school to a sports official.

(i) Before the league may take any action that amends rules related to the activities of sports officials, other than an action against an individual sports official under Subsection (f), the league must submit the proposed action for public review and comment, including:

(1) notifying registered sports officials of the proposed action by e-mail not later than the 30th day before the date set for action on the proposal; and

(2) posting the proposal on the league's Internet website for at least 30 consecutive days before the date set for action on the proposal.

(Enacted by Acts 2013, 83rd Leg., ch. 952 (H.B. 1775), § 1, effective June 14, 2013.)

Sec. 33.086. Certification in Cardiopulmonary Resuscitation and First Aid.

(a) A school district employee who serves as the head director of a school marching band or as the head coach or chief sponsor for an extracurricular athletic activity, including cheerleading, sponsored or sanctioned by a school district or the University Interscholastic League must maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification.

(b) Each school district shall adopt procedures necessary for administering this section, including procedures for the time and manner in which proof of current certification must be submitted.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.14(a), effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 881 (S.B. 741), § 1, effective June 20, 2003.)

Sec. 33.087. Eligibility of Students Participating in Joint Credit or Concurrent Enrollment Programs.

A student otherwise eligible to participate in an extracurricular activity or a University Interscholastic League competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided.

(Enacted by Acts 2007, 80th Leg., ch. 199 (H.B. 208), § 1, effective May 24, 2007.)

Sec. 33.091. Prevention of Illegal Steroid Use; Random Testing.

(a) In this section:

(1) "League" means the University Interscholastic League.

(2) "Parent" includes a guardian or other person standing in parental relation.

(3) "Steroid" means an anabolic steroid as described by Section 481.104, Health and Safety Code.

(b) The league shall adopt rules prohibiting a student from participating in an athletic competition sponsored or sanctioned by the league unless:

(1) the student agrees not to use steroids and, if the student is enrolled in high school, the student submits to random testing for the presence of illegal steroids in the student's body, in accordance with the program established under Subsection (d); and

(2) the league obtains from the student's parent a statement signed by the parent and acknowledging that:

(A) the parent's child, if enrolled in high school, may be subject to random steroid testing;

(B) state law prohibits possessing, dispensing, delivering, or administering a steroid in a manner not allowed by state law;

(C) state law provides that bodybuilding, muscle enhancement, or the increase of muscle bulk or strength through the use of a steroid by a person who is in good health is not a valid medical purpose;

(D) only a licensed practitioner with prescriptive authority may prescribe a steroid for a person; and

(E) a violation of state law concerning steroids is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

(c) The league shall:

(1) develop an educational program for students engaged in extracurricular athletic activities sponsored or sanctioned by the league, parents of those students, and coaches of those activities regarding the health effects of steroid use; and

(2) make the program available to school districts.

(c-1) A school district shall require that each district employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the league complete:

(1) the educational program developed by the league under Subsection (c); or

(2) a comparable program developed by the district or a private entity with relevant expertise.

(d) The league shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids in the students' bodies. The testing program must:

(1) require the random testing of a statistically significant number of high school students in this state who participate in athletic competitions sponsored or sanctioned by the league;

(2) provide for the selection of specific students described by Subdivision (1) for testing through a process that randomly selects students from a single pool consisting of all students who participate in any activity for which the league sponsors or sanctions athletic competitions;

(3) be administered at approximately 30 percent of the high schools in this state that participate in athletic competitions sponsored or sanctioned by the league;

(4) provide for a process for confirming any initial positive test result through a subsequent test conducted as soon as practicable after the initial test, using a sample that was obtained at the same time as the sample used for the initial test;

(5) require the testing to be performed only by an anabolic steroid testing laboratory with a current certification from the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services, the World Anti-Doping Agency, or another appropriate national or international certifying organization; and

(6) provide for a period of ineligibility from participation in an athletic competition sponsored or sanctioned by the league for any student with a confirmed positive test result or any student who refuses to submit to random testing.

(e) Results of a steroid test conducted under Subsection (d) are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

(f) From funds already appropriated, the agency shall pay the costs of the steroid testing program established under Subsection (d).

(g) The league may increase the membership fees required of school districts that participate in athletic competitions sponsored or sanctioned by the league in an amount necessary to offset the cost of league activities under this section.

(h) Subsection (b)(1) does not apply to the use by a student of a steroid that is dispensed, prescribed, delivered, and administered by a medical practitioner for a valid medical purpose and in the course of professional practice, and a student is not subject to a period of ineligibility under Subsection (d)(6) on the basis of that steroid use.

(i) [Expired pursuant to Acts 2005, 80th Leg., ch. 1177 (H.B. 3563), § 1, effective January 15, 2007.]

(Enacted by Acts 2005, 79th Leg., ch. 1177 (H.B. 3563), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1292 (S.B. 8), §§ 1, 2, effective June 15, 2007.)

Sec. 33.092. Student Election Clerks and Early Voting Clerks.

A student who is appointed as a student election clerk under Section 32.0511, Election Code, or as a student early voting clerk under Section 83.012, Election Code, may apply the time served as a student election clerk or student early voting clerk toward:

(1) a requirement for a school project at the discretion of the teacher who assigned the project; or

(2) a service requirement for participation in an advanced academic course program at the discretion of the program sponsor or a school-sponsored extracurricular activity at the discretion of the school sponsor.

(Am. Acts 2009, 81st Leg., ch. 517 (S.B. 1134), § 4, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 542 (S.B. 553), § 2, effective June 14, 2013.)

Sec. 33.094. Football Helmet Safety Requirements.

(a) A school district may not use a football helmet that is 16 years old or older in the district's football program.

(b) A school district shall ensure that each football helmet used in the district's football program that is 10 years old or older is reconditioned at least once every two years.

(c) A school district shall maintain and make available to parents of students enrolled in the district documentation indicating the age of each football helmet used in the district's football pro-

gram and the dates on which each helmet is reconditioned.

(d) The University Interscholastic League may adopt rules necessary to implement this section, provided that the rules must be approved by the commissioner in accordance with Section 33.083(b). (Enacted by Acts 2011, 82nd Leg., ch. 239 (H.B. 675), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 239 (H.B. 675), § 2 provides: "This Act applies beginning with the 2012-2013 school year."

SUBCHAPTER E
COMMUNITIES IN SCHOOLS PROGRAM

Sec. 33.151. Definitions.

In this subchapter:

(1) [Repealed by Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), § 4, effective September 1, 2007.]

(2) "Communities In Schools program" means an exemplary youth dropout prevention program.

(3) "Delinquent conduct" has the meaning assigned by Section 51.03, Family Code.

(4) "Student at risk of dropping out of school" means:

(A) a student at risk of dropping out of school as defined by Section 29.081;

(B) a student who is eligible for a free or reduced lunch; or

(C) a student who is in family conflict or crisis.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.001); am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 6, § 6.69, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.001); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.751); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003); am. Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), § 4, effective September 1, 2007.)

Sec. 33.152. Statewide Operation of Program.

It is the intent of the legislature that the Communities In Schools program operate throughout this state. It is also the intent of the legislature that programs established under Chapter 305, Labor Code, as that chapter existed on August 31, 1999, and its predecessor statute, the Texas Unemployment Compensation Act (Article 5221b-9d, Vernon's Texas Civil Statutes), and programs established under this subchapter shall remain eligible to participate in the Communities In Schools program if funds are available and if their performance meets the criteria established by the agency for renewal of their contracts.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.002); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.002); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.753); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003.)

Sec. 33.153. State Director [Repealed].

Repealed by Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), § 4, effective September 1, 2007.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), effective September 1, 1995 (renumbered from Labor Code Sec. 216.011); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.011); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.753); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003.)

Sec. 33.154. Duties of Commissioner.

(a) The commissioner shall:

(1) coordinate the efforts of the Communities In Schools program with other social service organizations and agencies and with public school personnel to provide services to students who are at risk of dropping out of school or engaging in delinquent conduct, including students who are in family conflict or emotional crisis;

(2) set standards for the Communities In Schools program and establish state performance goals, objectives, and measures for the program, including performance goals, objectives, and measures that consider improvement in student:

(A) behavior;

(B) academic achievement; and

(C) promotion, graduation, retention, and dropout rates;

(3) obtain information to determine accomplishment of state performance goals, objectives, and measures;

(4) promote and market the program in communities in which the program is not established;

(5) help communities that want to participate in the program establish a local funding base;

(6) provide training and technical assistance for participating communities and programs; and

(7) adopt policies concerning:

(A) the responsibility of the agency in encouraging local businesses to participate in local Communities In Schools programs;

(B) the responsibility of the agency in obtaining information from participating school districts;

(C) the use of federal or state funds available to the agency for programs of this nature; and

(D) any other areas concerning the program identified by the commissioner.

(b) The commissioner shall adopt rules to implement the policies described by Subsection (a)(7) and shall annually update the rules.

(c) Notwithstanding any provision of this subchapter, if the commissioner determines that a program consistently fails to achieve the performance goals, objectives, and measures established by the commissioner under Subsection (a)(2), the commissioner may withhold funding from that program and require the program to compete through a competitive bidding process to receive funding to participate in the program.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.012); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.012); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.754); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), § 1, effective September 1, 2007.)

Sec. 33.155. Cooperation with Communities In Schools, Inc.

The agency and Communities In Schools, Inc. shall work together to maximize the effectiveness of the Communities In Schools program.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.013); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.013); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.755); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), §§ 1, 4, effective September 1, 2007.)

Sec. 33.156. Funding; Expansion of Participation.

(a) The agency shall develop and implement an equitable formula for the funding of local Communities In Schools programs. The formula may provide for the reduction of funds annually contributed by the state to a local program by an amount not more than 50 percent of the amount contributed by the state for the first year of the program. The formula must consider the financial resources of individual communities and school districts. Savings accomplished through the implementation of the formula may be used to extend services to counties and municipalities currently not served by a local program or to extend services to counties and municipalities currently served by an existing local program.

(b) Each local Communities In Schools program shall develop a funding plan which ensures that the level of services is maintained if state funding is reduced.

(c) A local Communities In Schools program may accept federal funds, state funds, private contributions, grants, and public and school district funds to support a campus participating in the program.

(Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 969), art. 9, § 9.40(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.021); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.021); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.756); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003.)

Sec. 33.157. Participation in Program.

An elementary or secondary school receiving funding under Section 33.156 shall participate in a local Communities In Schools program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least 10 percent of the number of students in average daily attendance at the school, as determined by the agency.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995,

74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.021); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.022); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.757); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003.)

Sec. 33.158. Donations to Program.

(a) The agency may accept a donation of services or money or other property that the agency determines furthers the lawful objectives of the agency in connection with the Communities In Schools program.

(b) Each donation, with the name of the donor and the purpose of the donation, must be reported in the public records of the agency.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 655 (H.B. 1863), art. 11, § 11.05, effective September 1, 1995 (renumbered from Labor Code Sec. 216.031); am. Acts 1999, 76th Leg., ch. 489 (S.B. 1574), § 3, effective September 1, 1999 (renumbered from Labor Code Sec. 305.031); am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.118(a), effective September 1, 2003 (renumbered from Family Code Sec. 264.758); am. Acts 2003, 78th Leg., ch. 1205 (S.B. 1038), § 1, effective September 1, 2003.)

Sec. 33.159. Agency Performance of Communities in Schools Functions Required.

The agency, through the Communities In Schools State Office:

(1) must perform each function concerning the Communities In Schools program for which the agency is responsible; and

(2) may not contract with a private entity to perform a function described by Subdivision (1).

(Enacted by Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), § 2, effective September 1, 2007.)

SUBCHAPTER F
SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR ACTIVITIES

Sec. 33.201. Applicability.

This subchapter applies to each public school in this state and to any other school in this state subject to University Interscholastic League rules.

(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.202. Safety Training Required.

(a) The commissioner by rule shall develop and adopt an extracurricular activity safety training program as provided by this section. In developing the program, the commissioner may use materials available from the American Red Cross, Emergency Medical Systems (EMS), or another appropriate entity.

(b) The following persons must satisfactorily complete the safety training program:

(1) a coach, trainer, or sponsor for an extracurricular athletic activity;

(2) except as provided by Subsection (f), a physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity; and

(3) a director responsible for a school marching band.

(c) The safety training program must include:

(1) certification of participants by the American Red Cross, the American Heart Association, or a similar organization or the University Interscholastic League, as determined by the commissioner;

(2) current training in:

(A) emergency action planning;

(B) cardiopulmonary resuscitation if the person is not required to obtain certification under Section 33.086;

(C) communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and

(D) recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and

(3) at least once each school year, a safety drill that incorporates the training described by Subdivision (2) and simulates various injuries described by Subdivision (2)(D).

(d) A school district shall provide training to students participating in an extracurricular athletic activity related to:

(1) recognizing the symptoms of injuries described by Subsection (c)(2)(D); and

(2) the risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

(e) The safety training program and the training under Subsection (d) may each be conducted by a school or school district or by an organization described by Subsection (c)(1).

(f) A physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity is not required to complete the safety training program if the physician attends a continuing medical education course that specifically addresses emergency medicine.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.203. Completion of University Interscholastic League Forms.

(a) Each student participating in an extracurricular athletic activity must complete the University Interscholastic League forms entitled "Preparticipation Physical Evaluation—Medical History" and "Acknowledgment of Rules." Each form must be signed by both the student and the student's parent or guardian.

(b) Each form specified by Subsection (a) must clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by the University Interscholastic League as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by the University Interscholastic League.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.204. Certain Unsafe Athletic Activities Prohibited.

A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participating in the activity to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.205. Certain Safety Precautions Required.

(a) A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

(1) each student participating in the activity is adequately hydrated;

(2) any prescribed asthma medication for a student participating in the activity is readily available to the student;

(3) emergency lanes providing access to the practice or competition area are open and clear; and

(4) heatstroke prevention materials are readily available.

(b) If a student participating in an extracurricular athletic activity, including a practice or competition, becomes unconscious during the activity, the student may not:

(1) return to the practice or competition during which the student became unconscious; or

(2) participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.206. Compliance; Enforcement.

(a) In accordance with Chapter 552, Government Code, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202.

(b) The superintendent of a school district or the director of a school subject to this subchapter shall maintain complete and accurate records of the district's or school's compliance with Section 33.202.

(c) A school campus that is determined by the school's superintendent or director to be out of compliance with Section 33.202, 33.204, or 33.205 with regard to University Interscholastic League activities shall be subject to the range of penalties determined by the University Interscholastic League.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.207. Contact Information.

(a) The commissioner shall maintain an existing telephone number and an electronic mail address to allow a person to report a violation of this subchapter.

(b) Each school that offers an extracurricular athletic activity shall prominently display at the administrative offices of the school the telephone number and electronic mail address maintained under Subsection (a).
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.208. Notice Required.

(a) A school that offers an extracurricular athletic activity shall provide to each student participating in an extracurricular athletic activity and to the student's parent or guardian a copy of the text of Sections 33.201—33.207 and a copy of the University Interscholastic League's parent information manual.

(b) A document required to be provided under this section may be provided in an electronic format

unless otherwise requested by a student, parent, or guardian.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.209. Incorporation of Safety Regulations.

The University Interscholastic League shall incorporate the provisions of Sections 33.203—33.207 into the league's constitution and contest rules.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.210. Immunity from Liability.

This subchapter does not waive any liability or immunity of a school district or its officers or employees. This subchapter does not create any liability for or a cause of action against a school district or its officers or employees.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

Sec. 33.211. Limitation on Liability.

A person who volunteers to assist with an extracurricular activity is not liable for civil damages arising out of an act or omission relating to the requirements under Section 33.205 unless the act or omission is willfully or wantonly negligent.
(Enacted by Acts 2007, 80th Leg., ch. 1296 (S.B. 82), § 1, effective June 15, 2007.)

SUBCHAPTER G
EXPANDED LEARNING OPPORTUNITIES COUNCIL

Sec. 33.251. [Expires September 1, 2017] Definition.

In this chapter, "council" means the Expanded Learning Opportunities Council.
(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.252. [Expires September 1, 2017] Expanded Learning Opportunities.

(a) Expanded learning opportunities may be provided during:

(1) an extended school day;

(2) an extended school year; or

(3) structured learning programs outside of the regular school day, including before- and after-school programs and summer programs.

(b) Expanded learning opportunities may be provided by offering:

(1) rigorous coursework;

(2) mentoring;

(3) tutoring;

(4) physical activity;

(5) academic support; or

(6) educational enrichment in one or more subjects, including fine arts, civic engagement, science, technology, engineering, and mathematics.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.253. [Expires September 1, 2017] Establishment; Purposes.

(a) The Expanded Learning Opportunities Council is established to:

(1) study issues concerning expanded learning opportunities for this state's public school students, including:

(A) issues related to creating safe places for children outside of the regular school day, improving the academic success of students who participate in expanded learning opportunities programs, and assisting working families; and

(B) other issues prescribed under Section 33.258; and

(2) make recommendations as provided by Section 33.259 to address issues studied under this subchapter.

(b) In conducting studies under this subchapter, the council shall focus on innovative, hands-on learning approaches that complement rather than replicate the regular school curriculum.
(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.254. [Expires September 1, 2017] Sunset Provision.

The council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this subchapter expires September 1, 2017.
(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.255. [Expires September 1, 2017] Composition.

The council is composed of 13 members appointed by the commissioner as follows:

(1) two members of the public, including one representing the business community and one parent of a public school student participating in an expanded learning opportunities program in this state;

(2) two members who are involved in research-based expanded learning opportunities efforts in this state so that at least one is involved in efforts

to extend the school day or school year and at least one is involved in efforts to provide out of school time before or after the regular school day or during the period in which school is recessed for the summer;

(3) one member representing law enforcement;

(4) one member representing the agency;

(5) one member who is an educator, other than a superintendent, at the elementary school level;

(6) one member who is an educator, other than a superintendent, at the middle or junior high school level;

(7) one member who is an educator, other than a superintendent, at the high school level;

(8) one member who is a public school superintendent;

(9) one member representing a foundation that invests in expanded learning opportunities;

(10) one member representing a nonprofit organization that provides programs concerning good nutrition and prevention of or intervention to address childhood obesity; and

(11) one member who is a provider representing summer camps.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.256. [Expires September 1, 2017] Meetings.

(a) The council shall meet in person at least three times each year and may hold additional meetings by conference call if necessary.

(b) Section 551.125, Government Code, applies to a meeting held by conference call under this section, except that Section 551.125(b), Government Code, does not apply.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.257. [Expires September 1, 2017] Compensation.

A member of the council may not receive compensation for service on the council.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.258. [Expires September 1, 2017] Powers and Duties.

(a) The council shall:

(1) study issues related to expanded learning opportunities for public school students;

(2) study current research and best practices related to meaningful expanded learning opportunities;

(3) analyze the availability of and unmet needs for state and local programs for expanded learning opportunities for public school students;

(4) analyze opportunities to create incentives for businesses to support expanded learning opportunities programs for public school students;

(5) analyze opportunities to maximize charitable support for public and private partnerships for expanded learning opportunities programs for public school students;

(6) analyze opportunities to promote science, technology, engineering, and mathematics in expanded learning opportunities programs for public school students;

(7) study the future workforce needs of this state's businesses and other employers; and

(8) perform other duties consistent with this subchapter.

(b) In carrying out its powers and duties under this section, the council may request reports and other information relating to expanded learning opportunities and students in expanded learning opportunities programs from the Texas Education Agency and any other state agency.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.259. [Expires September 1, 2017] Statewide Expanded Learning Opportunities Plan; Report.

(a) The council shall develop a comprehensive statewide action plan for the improvement of expanded learning opportunities for public school students in this state, including a timeline for implementation of the plan.

(b) The council shall submit to both houses of the legislature, the governor, and the agency on or before November 1 of each even-numbered year a written report concerning:

(1) the status of the development or implementation of the council's statewide action plan, as applicable;

(2) any action taken to further development or implementation of the plan;

(3) any area that needs improvement in implementing the plan;

(4) any recommended change to the plan; and

(5) programs and services that address expanded learning opportunities outside of the regular school day.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

Sec. 33.260. [Expires September 1, 2017] Gifts, Grants, and Donations.

The agency may accept on behalf of the council a gift, grant, or donation from any source to carry out the purposes of this subchapter.

(Enacted by Acts 2013, 83rd Leg., ch. 531 (S.B. 503), § 1, effective June 14, 2013.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 33.901. Breakfast Programs.

(a) If at least 10 percent of the students enrolled in one or more schools in a school district or enrolled in an open-enrollment charter school are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the board of trustees of the school district or the governing body of the open-enrollment charter school shall participate in the program and make the benefits of the program available to all eligible students in the schools or school.

(b) A school district campus or an open-enrollment charter school participating in the national school breakfast program provided by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773) in which 80 percent or more of the students qualify for a free or reduced-price breakfast shall offer a free breakfast to each student.

(c) The commissioner shall grant a waiver of the free breakfast requirements under Subsection (b), not to exceed one year, to a school district campus or an open-enrollment charter school if the board of trustees of the school district or the governing body of the open-enrollment charter school votes to request the waiver at the annual meeting of the board of trustees required under Section 44.004 or an annual meeting of the governing body called to adopt a budget for the open-enrollment charter school for the succeeding fiscal year. Before voting to request a waiver under this subsection, the board of trustees or the governing body shall list the waiver as a separate item for consideration on the meeting's agenda and provide an opportunity for public comment regarding the waiver at the meeting.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 130 (S.B. 376), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 130 (S.B. 376), § 4 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 33.902. Public School Child Care.

(a) In this section, "school-age students" means children enrolled as students in prekindergarten through grade 7.

(b), (c) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 21(3), effective September 28, 2011.]

(d) The Work and Family Policies Clearinghouse may distribute money appropriated by the legislature to any school district for the purpose of implementing school-age child care before and after the school day and during school holidays and vacations for a school district's school-age students. Eligible use of funds shall include planning, development, establishment, expansion, or improvement of child care services and reasonable start-up costs. The clearinghouse may distribute money to pay fees charged for providing services to students who are considered to be at risk of dropping out of school under Section 29.081. The Texas Workforce Commission shall by rule establish procedures and eligibility requirements for distributing this money to school districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 118 (S.B. 503), § 1, effective September 1, 1997; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 21(3), effective September 28, 2011.)

Sec. 33.903. Community Education Child Care Services.

(a) The agency shall establish a pilot program for the development of community education child care services as provided by this section. From the total amount of funds appropriated to the agency, the commissioner shall withhold an amount specified in the General Appropriations Act and distribute that amount for programs under this section. A program established under this section is required only in a school district in which the program is financed by funds distributed under this section and any other funds available for the program.

(b) The legislature may make appropriations to the agency for the purpose of supporting before- and after-school child care programs in a school district that is operating a community education development project.

(c) The agency shall actively seek federal grants or funds to operate or expand a program established under this section.

(d) The State Board of Education by rule shall establish a procedure for distributing funds to school districts for child care programs under this section. The procedure must include a statewide competitive process by which the agency shall evaluate applications for child care programs submitted by eligible school districts and award funds to those districts whose applications the agency considers to possess the greatest merit. The State Board of Education by rule shall establish guidelines and objectives that the agency shall use in making evaluations for funding determination purposes. A school district is not entitled to administrative or judicial review of

the agency's funding determination, except to the extent that the State Board of Education by rule provides for administrative review.

(e) The agency may not consider a school district's application for child care funding unless the application:

(1) contains a resolution by the district's board of trustees or governing body adopting a particular child care plan;

(2) states the anticipated funding requirements for the district's child care program and provides the agency with the data and any analysis used to prepare the funding estimate;

(3) includes or is accompanied by a statement outlining how the proposed project effectuates the goals of this section and complies with the guidelines and objectives established under Subsection (d);

(4) provides that the district will provide before- and after-school care between the hours of 7 a.m. and 6 p.m. for any student in kindergarten through grade eight whose parents or legal guardians work, attend school, or participate in a job-training program during those hours;

(5) specifies that the district's child care program outlined in the application will maintain a ratio of not less than one caregiver per 20 students in kindergarten through grade three and a ratio of not less than one caregiver per 25 students in grades four through eight and will provide age-appropriate educational and recreational activities and homework assistance; and

(6) states that the district has appointed a child care administrator.

(f) A school district's child care administrator shall administer and coordinate the program under the authority of the district superintendent or another administrator the superintendent designates. The child care administrator shall appoint a coordinator to oversee the child care activities at each school site under the authority of the school's principal. Each district is encouraged to collaborate with child care management system contractors and Head Start program providers.

(g) Each school district may provide full-day care for students on school holidays and teacher preparation days and during periods school is in recess, including summer vacation.

(h) A school district may supplement any funds received under this section with funds received through other government assistance programs, program tuition, or private donations. Any tuition charge may reflect only the actual cost of care provided to the student, and the agency or other appropriate governmental agency approved by the commissioner may audit a program to ensure compliance with this subsection. A school district shall use state funds awarded under this section to benefit educationally disadvantaged children before using those funds for the care of other children.

(i) A school district may not use funds awarded under this section for student transportation unless that transportation is incident to an activity related to the curriculum of the child care program.

(j) A school district may use funds awarded under this section to contract with a private entity for providing child care services. Each of those entities shall adhere to the requirements of this section. A contract under this subsection is not effective until approved by the agency. The agency shall review each contract to ensure that the services to be delivered comply with this section. Each contract shall be awarded without regard to the race or gender of the contracting party, notwithstanding any other law.

(k) Each school district receiving funds under this section shall adopt minimum training and skills requirements that each individual providing child care or staff assistance for a district program under this section must satisfy. The agency shall determine whether those minimum requirements fulfill the aims and policies of this section and shall suspend the payment of funds to any district whose minimum requirements fail to fulfill the aims and policies of this section. The State Board of Education by rule shall adopt criteria by which the agency shall evaluate district minimum training and skills requirements. Any suspension order is subject to Chapter 2001, Government Code. A district may seek review of a suspension order under the review process adopted under Subsection (m).

(*l*) The State Board of Education by rule may authorize a school district to receive technical and planning assistance from a regional education service center.

(m) The agency shall monitor and review programs receiving funds under this section and may suspend funds to a school district whose programs fail to comply with this section. The State Board of Education by rule shall adopt an administrative process to review a suspension. Both a suspension order and the administrative review process are subject to Chapter 2001, Government Code.

(n) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1997.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 33.904. Liaison for Certain Children in Conservatorship of State.

(a) Each school district and open-enrollment charter school shall:

(1) appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school or open-enrollment charter school of a child in the district or area served by the charter school who is in the conservatorship of the state; and

(2) submit the liaison's name and contact information to the agency in a format and under the schedule determined by the commissioner.

(b) The agency shall provide information to the liaisons on practices for facilitating the enrollment in or transfer to a public school or open-enrollment charter school of children who are in the conservatorship of the state.

(Enacted by Acts 2011, 82nd Leg., ch. 725 (H.B. 826), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 579 (S.B. 832), § 1, effective June 14, 2013.)

CHAPTER 34
TRANSPORTATION

Section

Sec. 34.001. Purchase of Motor Vehicles.

(a) A school district may purchase school motor vehicles through the comptroller or through competitive bidding under Subchapter B, Chapter 44.

(b) The comptroller may adopt rules as necessary to implement Subsection (a). Before adopting a rule under this subsection, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b), Government Code, are met.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.83, effective September 1, 2007.)

Sec. 34.002. Safety Standards.

(a) The Department of Public Safety, with the advice of the Texas Education Agency, shall establish safety standards for school buses used to transport students in accordance with Section 34.003.

(b) Each school district shall meet or exceed the safety standards for school buses established under Subsection (a).

(c) A school district that fails or refuses to meet the safety standards for school buses established under this section is ineligible to share in the transportation allotment under Section 42.155 until the first anniversary of the date the district begins complying with the safety standards.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 2, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 9.01, effective June 18, 2003.)

Sec. 34.0021. School Bus Emergency Evacuation Training.

(a) Pursuant to the safety standards established by the Department of Public Safety under Section 34.002, each school district may conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency.

(b) A school district that chooses to conduct a training session under Subsection (a) is encouraged to conduct the school bus emergency evacuation training session in the fall of the school year. The school district is also encouraged to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour.

(c) The school bus emergency evacuation training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

(c-1) Immediately before each field trip involving transportation by school bus, a school district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

(d) Not later than the 30th day after the date that a school district completes a training session, the district shall provide the Department of Public Safety with a record certifying the district's completion of the training.

(e) The Department of Public Safety may adopt rules necessary to implement this section.

(Enacted by Acts 2007, 80th Leg., ch. 923 (H.B. 3190), § 7, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 3, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 6 provides: "This Act applies beginning with the 2009-2010 school year."

Sec. 34.003. Operation of School Buses.

(a) School buses or mass transit authority motor buses shall be used for the transportation of students to and from schools on routes having 10 or more students. On those routes having fewer than 10 students, passenger cars may be used for the transportation of students to and from school.

(b) To transport students in connection with school activities other than on routes to and from school:

(1) only school buses or motor buses may be used to transport 15 or more students in any one vehicle; and

(2) passenger cars or passenger vans may be used to transport fewer than 15 students.

(c) In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that the number of passengers in the vehicle does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

(d) In this section, "passenger van" means a motor vehicle other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.

(e) "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1029 (S.B. 517), § 1, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1061 (S.B. 1486), § 20, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 3, effective September 1, 1997.)

Sec. 34.004. Standing Children.

A school district may not require or allow a child to stand on a school bus or passenger van that is in motion.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1029 (S.B. 517), § 2, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1061 (S.B. 1486), § 21, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 4, effective September 1, 1997.)

Sec. 34.005. Financing.

(a) A school district financially unable to immediately pay for a school motor vehicle, including a bus, bus body, or bus chassis, the district purchases may, as prescribed by this section, issue interest-bearing time warrants in amounts sufficient to make the purchase.

(b) The warrants must mature in serial installments not later than the fifth anniversary of the date of issue and bear interest at a rate not to exceed the maximum rate provided by Section 1204.006, Government Code. The warrants shall be issued and sold at not less than their face value.

(c) The proceeds of the sale of the warrants shall be used to provide the funds required for the purchase.

(d) The warrants, on maturity and in the order of their maturity dates, are payable out of any available funds of the school district and, as they become due, are entitled to first and prior payment out of those funds.

(e) Full records of all warrants issued and sold shall be kept by the school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.205, effective September 1, 2001.)

Sec. 34.006. Sale of Buses.

(a) At the request of a school district, the comptroller shall dispose of a school bus.

(b) A school district is not required to dispose of a school bus through the comptroller.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), art. 1, § 1.84, effective September 1, 2007.)

Sec. 34.007. Public School Transportation System.

(a) A board of county school trustees or a school district board of trustees may establish and operate an economical public school transportation system:

(1) in the county or district, as applicable; or

(2) outside the county or district, as applicable, if the county or school district enters into an interlocal contract as provided by Chapter 791, Government Code.

(b) In establishing and operating the transportation system, the county or school district board shall:

(1) employ school bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety; and

(2) on determining eligibility for transportation services, allow a parent to designate one of the

following locations instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school, if the location is an approved stop on an approved route:

(A) a child-care facility, as defined by Section 42.002, Human Resources Code; or

(B) the residence of a grandparent of the child.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 169 (S.B. 833), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 24, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 449 (H.B. 273), § 1, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 817 (S.B. 1713), § 1, effective June 15, 2007.)

Sec. 34.008. Contract with Transit Authority, Commercial Transportation Company, or Juvenile Board.

(a) A board of county school trustees or school district board of trustees may contract with a mass transit authority, commercial transportation company, or juvenile board for all or any part of a district's public school transportation if the authority, company, or board:

(1) requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and

(2) uses only those school buses or mass transit authority buses in transporting 15 or more public school students that meet or exceed safety standards for school buses established under Section 34.002.

(b) This section does not prohibit the county or school district board from supplementing the state transportation cost allotment with local funds necessary to provide complete transportation services.

(c) A mass transit authority contracting under this section for daily transportation of pre-primary, primary, or secondary students to or from school shall conduct, in a manner and on a schedule approved by the county or district school board, the following education programs:

(1) a program to inform the public that public school students will be riding on the authority's or company's buses;

(2) a program to educate the drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and

(3) a program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1061 (S.B. 1486), § 22, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 5, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 449 (H.B. 273), §§ 2, 3, effective June 15, 2007.)

Sec. 34.009. Contracts for Use, Acquisition, or Lease of School Bus.

(a) As an alternative to purchasing a school bus, a board of county school trustees or school district board of trustees may contract with any person for use, acquisition, or lease with option to purchase of a school bus if the county or school district board determines the contract to be economically advantageous to the county or district. A contract in the form of an installment purchase or any form other than a lease or lease with option to purchase is subject to Section 34.001.

(b) A school bus that is leased or leased with an option to purchase under this section must meet or exceed the safety standards for school buses established under Section 34.002, Education Code.

(c) Each contract that reserves to the county or school district board the continuing right to terminate the contract at the expiration of each budget period of the board during the term of the contract is considered to be a commitment of current revenues only.

(d) Termination penalties may not be included in any contract under this section. The net effective interest rate on any contract must comply with Chapter 1204, Government Code.

(e) The competitive bidding requirements of Subchapter B, Chapter 44, apply to a contract under this section.

(f) The commissioner shall adopt a recommended contract form for the use, acquisition, or lease with option to purchase of school buses. A district is not required to use the contract.

(g) After a contract providing for payment aggregating $100,000 or more by a school district is authorized by the board of trustees, the board may submit the contract and the record relating to the contract to the attorney general for the attorney general's examination as to the validity of the contract. The approval is not required as a term of the contract. If the contract has been made in accordance with the constitution and laws of the state, the attorney general shall approve the contract, and the comptroller shall register the contract. After the contract has been approved by the attorney general and registered by the comptroller, the validity of the

contract is incontestable for any cause. The legal obligations of the lessor, vendor, or supplier of the property to the board are not diminished in any respect by the approval and registration of a contract.

(h) The decision of a board of county school trustees or school district board of trustees to use an alternative form of use, acquisition, or purchase of a school bus does not affect a district's eligibility for participation in the transportation funding provisions of the Foundation School Program or any other state funding program.

(i) A contract entered into under this section is a legal and authorized investment for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees and for the sinking funds of school districts.

(j) A contract under this section may have any lawful term of not less than two or more than 10 years.

(k) A school district may use the provisions of any other law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 6, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.206, effective September 1, 2001.)

Sec. 34.010. Use of School Buses for Extracurricular and Other School-Related Activities.

(a) A school district board of trustees or board of county school trustees governing a countywide transportation system may contract with nonschool organizations for the use of school buses. The county or school district board may provide services relating to the maintenance and operation of the buses in accordance with the contract.

(b) The commissioner shall ensure that the costs of using school buses for a purpose other than the transportation of students to or from school, including transportation for an extracurricular activity or field trip or of members of an organization other than a school organization, are properly identified in the Public Education Information Management System (PEIMS).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 34.011. Appeals.

A policy decision of a board of county school trustees or board of trustees of a school district affecting transportation is final and may not be appealed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 34.012. Three-Point Seat Belt Instruction; Information Clearinghouse.

(a) The State Board of Education shall develop and make available to each school district a program of instruction in the proper use of a three-point seat belt.

(b) The State Board of Education shall serve as a clearinghouse of best practices for school districts seeking the most efficient and sensible information regarding school bus safety, including possible compliance with Section 547.701, Transportation Code, using school buses originally purchased without seat belts.

(Enacted by Acts 2007, 80th Leg., ch. 259 (H.B. 323), § 3, effective September 1, 2007.)

Sec. 34.013. Bus Seat Belt Policy.

A school district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students.

(Enacted by Acts 2007, 80th Leg., ch. 259 (H.B. 323), § 3, effective September 1, 2007.)

Sec. 34.014. Funding for Three-Point Seat Belts.

(a) A person may offer to donate three-point seat belts or money for the purchase of three-point seat belts for a school district's school buses.

(b) The board of trustees of a school district shall consider any offer made by a person under Subsection (a). The board of trustees may accept or decline the offer after adequate consideration.

(c) The board of trustees may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus under this section by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

(Enacted by Acts 2007, 80th Leg., ch. 259 (H.B. 323), § 3, effective September 1, 2007.)

Sec. 34.015. Reporting of Bus Accidents.

(a) In this section, "bus" means a bus operated by or contracted for use by a school district to transport schoolchildren.

(b) A school district shall report annually to the Texas Education Agency the number of accidents in which the district's buses are involved. The agency by rule shall determine the information to be reported, including:

(1) the type of bus involved in the accident;

(2) whether the bus was equipped with seat belts;

(3) the number of students and adults involved in the accident;

(4) the number and types of injuries sustained by bus passengers in the accident; and

(5) whether the injured passengers were wearing seat belts at the time of the accident.

(c) The Texas Education Agency shall publish the reports received under this section on its Internet website.

(Enacted by Acts 2007, 80th Leg., ch. 259 (H.B. 323), § 3, effective September 1, 2007.)

SUBTITLE G
SAFE SCHOOLS

CHAPTER 37
DISCIPLINE; LAW AND ORDER

Subchapter A. Alternative Settings for Behavior Management

Subchapter B. School-Community Guidance Centers

Subchapter C. Law and Order

Subchapter D. Protection of Buildings and Grounds

Subchapter E. Penal Provisions

SUBCHAPTER A
ALTERNATIVE SETTINGS FOR BEHAVIOR MANAGEMENT

Sec. 37.001. Student Code of Conduct.

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 487]** specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or school bus;

(1) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1409]** specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 2, effective June 19, 1997; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), §§ 4, 30, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 504 (H.B. 603), § 1, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 920 (H.B. 283), § 3, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 897 (H.B. 171), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 5, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 487 (S.B. 1541), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 8 provides: "This Act applies beginning with the 2012—2013 school year."

Acts 2013, 83rd Leg., ch. 487 (H.B. 1541), § 3 provides: "This Act applies beginning with the 2014—2015 school year."

Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10 provides: "(a) Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date.

(b) Section 37.085, Education Code, as added by this Act, applies to an offense committed before, on, or after the effective date of this Act."

Sec. 37.0011. Use of Corporal Punishment.

(a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:

(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or

guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

(c) To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.

(d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

(Enacted by Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 9 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 37.002. Removal by Teacher.

(a) A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

(b) A teacher may remove from class a student:

(1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 5, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 504 (H.B. 603), § 2, effective June 17, 2005.)

Sec. 37.0021. Use of Confinement, Restraint, Seclusion, and Time-Out.

(a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29. A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other

duties authorized by the Code of Criminal Procedure.

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:

(1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;

(2) 40 T.A.C. Sections 720.1001—720.1013; or

(3) 25 T.A.C. Section 412.308(e).

(d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards; and

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.

(e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.

(f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

(1) the student possesses a weapon; and

(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer performing law enforcement duties, except as provided by Subsection (i);

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

(1) is employed or commissioned by a school district; or

(2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

(i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

(Enacted by Acts 2001, 77th Leg., ch. 212 (S.B. 1196), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 6, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 691 (H.B. 359), §§ 2, 3, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 9 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 37.0022. Removal by School Bus Driver.

(a) The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus. The principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

(b) Section 37.004 applies to any placement under Subsection (a) of a student with a disability who receives special education services.

(Enacted by Acts 2013, 83rd Leg., ch. 487 (S.B. 1541), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 487 (S.B. 1541), § 3 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 37.003. Placement Review Committee.

(a) Each school shall establish a three-member committee to determine placement of a student

when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:

(1) the campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and

(2) the principal shall choose one member from the professional staff of a campus.

(b) The teacher refusing to readmit the student may not serve on the committee.

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 7, effective June 20, 2003.)

Sec. 37.004. Placement of Students with Disabilities.

(a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.

(b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and dismissal committee conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

(1) functional behavioral assessments;

(2) positive behavioral interventions, strategies, and supports;

(3) behavioral intervention plans; and

(4) the manifestation determination review.

(c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.

(d) A teacher in an alternative education program under Section 37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.

(e) to (g) [Expired pursuant to Acts 2003, 78th Leg., ch. 435 (H.B. 469), § 1, effective September 1, 2005.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 6, effective June 13, 2001; am. Acts 2001, 77th Leg., ch. 1225 (S.B. 189), § 1, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 435 (H.B. 469), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.006, effective September 1, 2003.)

Sec. 37.005. Suspension.

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 8, effective June 20, 2003.)

Sec. 37.0051. Placement of Students Committing Sexual Assault Against Another Student.

(a) As provided by Section 25.0341(b)(2), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011.

(b) A limitation imposed by this subchapter on the length of a placement in a disciplinary alternative education program or a juvenile justice alternative education program does not apply to a placement under this section.

(Enacted by Acts 2005, 79th Leg., ch. 997 (H.B. 308), § 2, effective June 18, 2005.)

Sec. 37.006. Removal for Certain Conduct.

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code; or

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code.

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(e) In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the Penal Code, the superintendent or the superintendent's designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure.

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. An elementary school student may not be placed in a disciplinary alternative education program with any other student who is not an elementary school student.

(g) The terms of a placement under this section must prohibit the student from attending or participating in a school-sponsored or school-related activity.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular

classroom threatens the safety of other students or teachers.

(i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

(k) Subsections (h), (i), and (j) do not apply to placements made in accordance with Subsection (a).

(*l*) Notwithstanding any other provision of this code, other than Section 37.007(e)(2), a student who is younger than six years of age may not be removed from class and placed in a disciplinary alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 3, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.15, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 486 (H.B. 1088), § 1, effective June 11, 2001; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 9, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 504 (H.B. 603), § 3, effective June 17, 2005; am. Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 5(a) and (b) provides:

"(a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2011-2012 school year.

(b) Sections 37.007(c) and 37.011(k) and (*l*), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year."

Sec. 37.0061. Funding for Alternative Education Services in Juvenile Residential Facilities.

A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

(Enacted by Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 4, effective June 19, 1997.)

Sec. 37.0062. Instructional Requirements for Alternative Education Services in Juvenile Residential Facilities.

(a) The commissioner shall determine the instructional requirements for education services provided by a school district or open-enrollment charter school in a pre-adjudication secure detention facility

or a post-adjudication secure correctional facility operated by a juvenile board or a post-adjudication secure correctional facility operated under contract with the Texas Youth Commission, including requirements relating to:

(1) the length of the school day;

(2) the number of days of instruction provided to students each school year; and

(3) the curriculum of the educational program.

(b) The commissioner shall coordinate with:

(1) the Texas Juvenile Probation Commission in determining the instructional requirements for education services provided under Subsection (a) in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board; and

(2) the Texas Youth Commission in determining the instructional requirements for education services provided under Subsection (a) in a post-adjudication secure correctional facility operated under contract with the Texas Youth Commission.

(c) The commissioner shall adopt rules necessary to administer this section. The rules must ensure that:

(1) a student who receives education services in a pre-adjudication secure detention facility described by this section is offered courses that enable the student to maintain progress toward completing high school graduation requirements; and

(2) a student who receives education services in a post-adjudication secure correctional facility described by this section is offered, at a minimum, the courses necessary to enable the student to complete high school graduation requirements.

(d) The Texas Juvenile Probation Commission or the Texas Youth Commission, as applicable, shall coordinate with the commissioner in establishing standards for:

(1) ensuring security in the provision of education services in the facilities; and

(2) providing children in the custody of the facilities access to education services.

(Enacted by Acts 2007, 80th Leg., ch. 615 (H.B. 425), § 1, effective September 1, 2007.)

Sec. 37.007. Expulsion for Serious Offenses.

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) uses, exhibits, or possesses:

(A) a firearm as defined by Section 46.01(3), Penal Code;

(B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;

(C) a club as defined by Section 46.01(1), Penal Code; or

(D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

(G) manslaughter under Section 19.04, Penal Code;

(H) criminally negligent homicide under Section 19.05, Penal Code; or

(I) continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable

volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921;

(4) engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property; or

(5) engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:

(A) the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and

(B) the student knowingly:

(i) alters, damages, or deletes school district property or information; or

(ii) commits a breach of any other computer, computer network, or computer system.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

(1) deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) extortion, meaning the gaining of money or other property by force or threat;

(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) conduct that constitutes the offense of:

(A) public lewdness under Section 21.07, Penal Code;

(B) indecent exposure under Section 21.08, Penal Code;

(C) criminal mischief under Section 28.03, Penal Code;

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this

subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(h) Subject to Subsection (e), notwithstanding any other provision of this section, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by this section.

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) on school property of another district in this state; or

(2) while attending a school-sponsored or school-related activity of a school in another district in this state.

(j) [Blank.]

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) at an approved target range facility that is not located on a school campus; and

(2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

(*l*) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 5, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 542 (S.B. 260), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 486 (H.B. 1088), § 2, effective June 11, 2001; am. Acts 2003, 78th Leg., ch. 225 (H.B. 552), § 1, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 443 (H.B. 567), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 10, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 504 (H.B. 603), § 4, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 5, § 5.004, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), art. 3, § 3.26, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 338 (H.B. 1020), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 963 (H.B. 1224), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 338 (H.B. 1020), § 2 provides: "This Act applies beginning with the 2009-2010 school year."

Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 5 provides:

"(a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2011-2012 school year.

(b) Sections 37.007(c) and 37.011(k) and (*l*), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year."

Acts 2011, 82nd Leg., ch. 963 (H.B. 1224), § 2 provides: "Section 37.007(b)(5), Education Code, as added by this Act, applies only to a student who engages in conduct described by Section 37.007(b)(5) on or after the effective date of this Act [June 17, 2011]."

Sec. 37.008. Disciplinary Alternative Education Programs.

(a) Each school district shall provide a disciplinary alternative education program that:

(1) is provided in a setting other than a student's regular classroom;

(2) is located on or off of a regular school campus;

(3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

(5) provides for students' educational and behavioral needs;

(6) provides supervision and counseling;

(7) employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21; and

(8) provides not less than the minimum amount of instructional time per day required by Section 25.082(a).

(a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:

(1) student/teacher ratios;

(2) student health and safety;

(3) reporting of abuse, neglect, or exploitation of students;

(4) training for teachers in behavior management and safety procedures; and

(5) planning for a student's transition from a disciplinary alternative education program to a regular campus.

(a-2), (a-3) [Expired pursuant to Acts 2007, 80th Leg., ch. 1171 (H.B. 426), § 1, effective January 15, 2009.]

(b) A disciplinary alternative education program may provide for a student's transfer to:

(1) a different campus;

(2) a school-community guidance center; or

(3) a community-based alternative school.

(c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39.

(d) A school district may provide a disciplinary alternative education program jointly with one or more other districts.

(e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary alternative education program.

(f) A student removed to a disciplinary alternative education program is counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

(g) A school district shall allocate to a disciplinary alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.

(h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary alternative education program.

(i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.

(j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(*l*) A school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection.

(*l*-1) A school district shall provide the parents of a student removed to a disciplinary alternative

education program with written notice of the district's obligation under Subsection (*l*) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

(1) include information regarding all methods available for completing the coursework; and

(2) state that the methods are available at no cost to the student.

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 6, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.16, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1112 (H.B. 3606), § 1, effective June 18, 1999; am. Acts 2003, 78th Leg., ch. 631 (H.B. 2061), § 2, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 11, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 504 (H.B. 603), § 5, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1171 (H.B. 426), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1316 (S.B. 49), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1316 (S.B. 49), § 2 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 37.0081. Expulsion and Placement of Certain Students in Alternative Settings.

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students.

(a-1) The student must be placed in:

(1) a juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or

(2) a disciplinary alternative education program.

(b) Any decision of the board of trustees or the board's designee under this section is final and may not be appealed.

(c) The board of trustees or the board's designee may expel the student and order placement in accordance with this section regardless of:

(1) the date on which the student's conduct occurred;

(2) the location at which the conduct occurred;

(3) whether the conduct occurred while the student was enrolled in the district; or

(4) whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

(d) Notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until:

(1) the student graduates from high school;

(2) the charges described by Subsection (a)(1) are dismissed or reduced to a misdemeanor offense; or

(3) the student completes the term of the placement or is assigned to another program.

(e) A student placed in an alternative setting in accordance with this section is entitled to the periodic review prescribed by Section 37.009(e).

(f) Subsection (d) continues to apply to the student if the student transfers to another school district in the state.

(g) The board of trustees shall reimburse a juvenile justice alternative education program in which a student is placed under this section for the actual cost incurred each day for the student while the student is enrolled in the program. For purposes of this subsection:

(1) the actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and

(2) the juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

(h) To the extent of a conflict between this section and Section 37.007, Section 37.007 prevails.

(Enacted by Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 12, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 3, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 5(a) provides: "Except as provided by Subsection (b) of this section, this Act applies beginning with the 2011-2012 school year."

Sec. 37.0082. Assessment of Academic Growth of Students in Disciplinary Alternative Education Programs.

(a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:

(1) initially on placement of the student in the program; and

(2) subsequently on the date of the student's departure from the program, or as near that date as possible.

(b) The assessment instrument required by this section:

(1) must be designed to assess at least a student's basic skills in reading and mathematics;

(2) may be:

(A) comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or

(B) based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and

(3) is in addition to the assessment instruments required to be administered under Chapter 39.

(c) The commissioner shall adopt rules necessary to implement this section.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 2, effective June 15, 2007.)

Sec. 37.009. Conference; Hearing; Review.

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator

under Section 37.001(a)(2) or 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the student code of conduct. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the principal or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

(1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or

(2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(*l*). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplin-

ary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 7, effective June 19, 1997; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 13, effective June 20, 2003.)

Sec. 37.0091. Notice to Noncustodial Parent.

(a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) A school district or school may not unreasonably deny a request authorized by Subsection (a).

(c) Notwithstanding any other provision of this section, a school district or school shall comply with any applicable court order of which the district or school has knowledge.

(Enacted by Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 14, effective June 20, 2003.)

Sec. 37.010. Court Involvement.

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the

juvenile court may not order the student to attend a disciplinary alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, if the student meets the requirements for admission into the public schools established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if the student was expelled by a school district in another state if:

(1) the out-of-state district provides to the district a copy of the expulsion order; and

(2) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section. (Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 8, effective June 19, 1997; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 15, effective June 20, 2003.)

Sec. 37.011. Juvenile Justice Alternative Education Program.

(a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Probation Commission. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

(1) is not required to be approved by the Texas Juvenile Probation Commission; and

(2) is not subject to Subsection (c), (d), (f), or (g).

(a-1) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

(1) the county had a population of 125,000 or less according to the 2000 federal census; and

(2) the juvenile board of the county enters into, with the approval of the Texas Juvenile Probation Commission, a memorandum of understanding with each school district within the county that:

(A) outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and

(B) includes the coordination procedures required by Section 37.013.

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of 180,000 or less;

(2) is adjacent to two counties, each of which has a population of more than 1.7 million; and

(3) has seven or more school districts located wholly within the county's boundaries.

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of more than 200,000 and less than 220,000;

(2) has five or more school districts located wholly within the county's boundaries; and

(3) has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

(a-4) A school district located in a county considered to be a county with a population of 125,000 or less under Subsection (a-3) shall provide educational services to a student who is expelled from school under this chapter. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

(1) the district's disciplinary alternative education program; or

(2) a contracted placement with:

(A) another school district;

(B) an open-enrollment charter school;

(C) an institution of higher education;

(D) an adult literacy council; or

(E) a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

(a-5) For purposes of Subsection (a-4), an educational placement other than a school district's disciplinary alternative education program is subject to the educational and certification requirements applicable to an open-enrollment charter school under Subchapter D, Chapter 12.

(b) If a student admitted into the public schools of a school district under Section 25.001(b) is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student; and

(4) provide timely educational services to the student in the juvenile justice alternative education program in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student.

(b-1) Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

(c) A juvenile justice alternative education program shall adopt a student code of conduct in accordance with Section 37.001.

(d) A juvenile justice alternative education program must focus on English language arts, mathematics, science, social studies, and self-discipline. Each school district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. Each program shall administer assessment instruments under Subchapter B, Chapter 39, and shall offer a high school equivalency program. The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified by this subsection.

(e) A juvenile justice alternative education program may be provided in a facility owned by a school district. A school district may provide personnel and services for a juvenile justice alternative education program under a contract with the juvenile board.

(f) A juvenile justice alternative education program must operate at least seven hours per day and 180 days per year, except that a program may apply to the Texas Juvenile Probation Commission for a waiver of the 180-day requirement. The commission may not grant a waiver to a program under this subsection for a number of days that exceeds the highest number of instructional days waived by the

commissioner during the same school year for a school district served by the program.

(g) A juvenile justice alternative education program shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Probation Commission for review and comment. A juvenile justice alternative education program is not subject to a requirement imposed by this title, other than a reporting requirement or a requirement imposed by this chapter or by Chapter 39.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31 if the juvenile justice alternative education program receives funding from the Texas Juvenile Probation Commission under this subchapter.

(i) A student transferred to a juvenile justice alternative education program must participate in the program for the full period ordered by the juvenile court unless the student's school district agrees to accept the student before the date ordered by the juvenile court. The juvenile court may not order a period of transfer under this section that exceeds the term of any probation ordered by the juvenile court.

(j) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) establishes that a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(*l*) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b) and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

(m) Each school district in a county with a population greater than 125,000 and the county juvenile board shall adopt a joint memorandum of under-

standing as required by this section not later than September 1 of each school year.

(n) If a student who is ordered to attend a juvenile justice alternative education program moves from one county to another, the juvenile court may request the juvenile justice alternative education program in the county to which the student moves to provide educational services to the student in accordance with the local memorandum of understanding between the school district and juvenile board in the receiving county.

(o) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's employees and volunteers are immune from liability to the same extent as a school district's employees and volunteers.

(p) If a district elects to contract with the juvenile board for placement in the juvenile justice alternative education program of students expelled under Section 37.007(b), (c), and (f) and the juvenile board and district are unable to reach an agreement in the memorandum of understanding, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator in which each party will pay its pro rata share of the arbitration costs. Each party must submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the school districts shall select an arbitrator, and those two arbitrators shall select an arbitrator who will decide the issues in dispute. An arbitration decision issued under this subsection is enforceable in a court in the county in which the juvenile justice alternative education program is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a juvenile justice alternative education program must provide an amount sufficient based on operation of the juvenile justice alternative education program in accordance with this chapter. In determining the amount to be paid by a school district for an expelled student enrolled in a juvenile justice alternative education program, the arbitrator shall consider the relevant factors, including evidence of:

(1) the actual average total per student expenditure in the district's alternative education setting;

(2) the expected per student cost in the juvenile justice alternative education program as described and agreed on in the memorandum of understanding and in compliance with this chapter; and

(3) the costs necessary to achieve the accountability goals under this chapter.

(q) In accordance with rules adopted by the board of trustees for the Teacher Retirement System of Texas, a certified educator employed by a juvenile board in a juvenile justice alternative education program shall be eligible for membership and participation in the system to the same extent that an employee of a public school district is eligible. The juvenile board shall make any contribution that otherwise would be the responsibility of the school district if the person were employed by the school district, and the state shall make any contribution to the same extent as if the person were employed by a school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 9, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1282 (S.B. 135), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.17, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1225 (S.B. 189), § 2, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 16, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 376 (H.B. 1425), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 235 (H.B. 592), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 4, effective June 17, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 70.01, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 376 (H.B. 1425), § 3 provides: "This Act applies beginning with the 2009-2010 school year."

Acts 2011, 82nd Leg., ch. 235 (H.B. 592), § 2 provides: "This Act applies beginning with the 2011-2012 school year."

Acts 2011, 82nd Leg., ch. 948 (H.B. 968), § 5(b) provides: "Sections 37.007(c) and 37.011(k) and (*l*), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year."

Sec. 37.012. Funding of Juvenile Justice Alternative Education Programs.

(a) Subject to Section 37.011(n), the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(b) Funds received under this section must be expended on juvenile justice alternative education programs.

(c) The Office of State-Federal Relations shall assist a local juvenile probation department in identifying additional state or federal funds to assist local juvenile probation departments conducting educational or job training programs within juvenile justice alternative education programs.

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

(e) Except as otherwise authorized by law, a juvenile justice alternative education program may not require a student or the parent or guardian of a student to pay any fee, including an entrance fee or supply fee, for participating in the program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 10, effective June 19, 1997; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 17, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 964 (H.B. 1687), § 1, effective June 18, 2005.)

Sec. 37.013. Coordination Between School Districts and Juvenile Boards.

The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 18, effective June 20, 2003.)

Sec. 37.014. Court-Related Children—Liaison Officers.

Each school district shall appoint at least one educator to act as liaison officer for court-related children who are enrolled in the district. The liaison officer shall provide counselling and services for each court-related child and the child's parents to establish or reestablish normal attendance and progress of the child in the school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.015. Reports to Local Law Enforcement; Liability.

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

(1) conduct that may constitute an offense listed under Section 508.149, Government Code;

(2) deadly conduct under Section 22.05, Penal Code;

(3) a terroristic threat under Section 22.07, Penal Code;

(4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;

(5) the possession of any of the weapons or devices listed under Sections 46.01(1)—(14) or Section 46.01(16), Penal Code;

(6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or

(7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 12, § 12.05, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 19, effective June 20, 2003.)

Sec. 37.016. Report of Drug Offenses; Liability.

A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

(1) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;

(2) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) an abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or

(4) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.017. Destruction of Certain Records.

Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the school year in which the report was filed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.018. Information for Educators.

Each school district shall provide each teacher and administrator with a copy of this subchapter and with a copy of the local policy relating to this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.0181. Professional Development Regarding Disciplinary Procedures.

(a) Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding this subchapter, including training relating to the distinction between a discipline management technique used at the principal's discretion under Section 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Section 37.002(b).

(b) Professional development training under this section may be provided in coordination with regional education service centers through the use of distance learning methods, such as telecommunications networks, and using available agency resources.

(Enacted by Acts 2013, 83rd Leg., ch. 329 (H.B. 1952), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 329 (H.B. 1952), § 2 provides: "This Act applies beginning with the 2014-2015 school year."

Sec. 37.019. Emergency Placement or Expulsion.

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 7, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 20, effective June 20, 2003.)

Sec. 37.020. Reports Relating to Expulsions and Disciplinary Alternative Education Program Placements.

(a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the placement was based on:

(A) conduct violating the student code of conduct adopted under Section 37.001;

(B) conduct for which a student may be removed from class under Section 37.002(b);

(C) conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or

(D) conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 37.008(j);

(3) the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

(4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(c) For each expulsion under Section 37.007, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the expulsion was based on:

(A) conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) conduct for which expulsion is permitted under Section 37.007;

(3) the number of full or partial days the student was expelled;

(4) information indicating whether:

(A) the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) the student was placed in a disciplinary alternative education program; or

(C) the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(Enacted by Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 11, effective June 19, 1997; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 21, effective June 20, 2003.)

Sec. 37.021. Opportunity to Complete Courses During In-School and Certain Other Placements.

(a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

(Enacted by Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 22, effective June 20, 2003.)

Sec. 37.022. Notice of Disciplinary Action.

(a) In this section:

(1) "Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student by a district or school.

(2) "District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

(b) If a district or school takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the governing body of the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

(c) Subject to Section 37.007(e), the district or school in which the student enrolls may continue the disciplinary action under the terms of the order or may allow the student to attend regular classes without completing the period of disciplinary action.

(Enacted by Acts 2003, 78th Leg., ch. 631 (H.B. 2061), § 1, effective June 20, 2003; am. Acts 2005,

79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(16), effective September 1, 2005 (renumbered from Sec. 37.021).)

SUBCHAPTER B
SCHOOL-COMMUNITY GUIDANCE CENTERS

Sec. 37.051. Establishment.

Each school district may establish a school-community guidance center designed to locate and assist children with problems that interfere with education, including juvenile offenders and children with severe behavioral problems or character disorders. Each center shall coordinate the efforts of school district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.052. Cooperative Programs.

The board of trustees of a school district may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.053. Cooperation of Governmental Agencies.

(a) Each governmental agency that is concerned with children and that has jurisdiction in the school district shall cooperate with the school-community guidance centers on the request of the superintendent of the district and shall designate a liaison to work with the centers in identifying and correcting problems affecting school-age children in the district.

(b) The governmental agency may establish or finance a school-community guidance center jointly with the school district according to terms approved by the governing body of each entity participating in the joint establishment or financing of the center.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.054. Parental Notice, Consent, and Access to Information.

(a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

(1) the reason that the student has been assigned to the center;

(2) a statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and

(3) a statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

(1) any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and

(2) the results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.055. Parental Involvement.

(a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

(1) a statement of the student's behavioral and learning objectives;

(2) a requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and

(3) the parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.056. Court Supervision.

(a) In this section, "court" means a juvenile court or alternate juvenile court designated under Chapter 51, Family Code. The court may delegate responsibility under this section to a referee appointed under Section 51.04, Family Code.

(b) If a representative of the school district, the student, and the parent or guardian for any reason fail to reach an agreement under Section 37.055, the court may, on the request of any party and after a hearing, enter an order establishing the responsibilities and duties of each of the parties as the court considers appropriate.

(c) The court may compel attendance at any hearing held under this section through any legal process, including subpoena and habeas corpus.

(d) If the parties reach an agreement under Section 37.055, and if the written agreement so provides, the court may enter an order that incorporates the terms of the agreement.

(e) Any party who violates an order issued under this section may be punished for contempt of court.

(f) A school district may enter into an agreement to share the costs incurred by a county under this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
LAW AND ORDER

Sec. 37.081. School District Peace Officers and Security Personnel.

(a) The board of trustees of any school district may employ security personnel and may commission peace officers to carry out this subchapter. If a board of trustees authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer. The jurisdiction of a peace officer or security personnel under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ the peace officer or security personnel.

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

(1) has the powers, privileges, and immunities of peace officers;

(2) may enforce all laws, including municipal ordinances, county ordinances, and state laws;

(3) may, in accordance with Chapter 52, Family Code, or Article 45.058, Code of Criminal Procedure, take a child into custody; and

(4) may dispose of cases in accordance with Section 52.03 or 52.031, Family Code.

(c) A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.

(d) A school district peace officer shall perform law enforcement duties for the school district as determined by the board of trustees of the school district. Those duties must include protecting:

(1) the safety and welfare of any person in the jurisdiction of the peace officer; and

(2) the property of the school district.

(e) The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.

(f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Texas Commission on Law Enforcement.

(g) A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies.

(h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of $1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2013, 83rd Leg., ch. 93 (S.B. 686), § 2.11, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393),

§ 9, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 4, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) Section 37.085, Education Code, as added by this Act, applies to an offense committed before, on, or after the effective date of this Act."

Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10(a) provides: "Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date."

Sec. 37.0811. School Marshals.

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may appoint not more than one school marshal per 400 students in average daily attendance per campus.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may select for appointment as a school marshal under this section an applicant who is an employee of the school district or open-enrollment charter school and certified as eligible for appointment under Section 1701.260, Occupations Code. The board of trustees or governing body may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school may carry or possess a handgun on the physical premises of a school, but only:

(1) in the manner provided by written regulations adopted by the board of trustees or the governing body; and

(2) at a specific school as specified by the board of trustees or governing body, as applicable.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

(e) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the district or charter school; or

(4) notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(Enacted by Acts 2013, 83rd Leg., ch. 655 (H.B. 1009), § 3, effective June 14, 2013.)

Sec. 37.0815. Consideration of Countywide Employment of School District Peace Officers and Security Personnel [Expired].

Expired pursuant to Acts 2011, 82nd Leg., ch. 151 (H.B. 1254), § 1, effective September 1, 2012.

(Enacted by Acts 2011, 82nd Leg., ch. 151 (H.B. 1254), § 1, effective May 28, 2011.)

Sec. 37.082. Possession of Paging Devices.

(a) The board of trustees of a school district may adopt a policy prohibiting a student from possessing a paging device while on school property or while attending a school-sponsored or school-related activity on or off school property. The policy may establish disciplinary measures to be imposed for violation of the prohibition and may provide for confiscation of the paging device.

(b) The policy may provide for the district to:

(1) dispose of a confiscated paging device in any reasonable manner after having provided the stu-

dent's parent and the company whose name and address or telephone number appear on the device 30 days' prior notice of its intent to dispose of that device. The notice shall include the serial number of the device and may be made by telephone, telegraph, or in writing; and

(2) charge the owner of the device or the student's parent an administrative fee not to exceed $15 before it releases the device.

(c) In this section, "paging device" means a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), art. 2, § 2.02, effective September 1, 2007.)

Sec. 37.083. Discipline Management Programs; Sexual Harassment Policies.

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles.

(b) Each school district may develop and implement a sexual harassment policy to be included in the district improvement plan under Section 11.252.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2005, 79th Leg., ch. 920 (H.B. 283), § 4, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 6, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 8 provides: "This Act applies beginning with the 2012-2013 school year."

Sec. 37.0831. Dating Violence Policies.

(a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

(Enacted by Acts 2007, 80th Leg., ch. 131 (H.B. 121), § 1, effective May 18, 2007.)

Sec. 37.0832. Bullying Prevention Policies and Procedures.

(a) In this section, "bullying" means, subject to Subsection (b), engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that:

(1) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or

(2) is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

(b) Conduct described by Subsection (a) is considered bullying if that conduct:

(1) exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and

(2) interferes with a student's education or substantially disrupts the operation of a school.

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

(1) prohibits the bullying of a student;

(2) prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

(3) establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;

(4) establishes the actions a student should take to obtain assistance and intervention in response to bullying;

(5) sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;

(6) establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;

(7) prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and

(8) requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(d) The policy and any necessary procedures adopted under Subsection (c) must be included:

(1) annually, in the student and employee school district handbooks; and

(2) in the district improvement plan under Section 11.252.

(e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.

(Enacted by Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 7, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 776 (H.B. 1942), § 8 provides: "This Act applies beginning with the 2012-2013 school year."

Sec. 37.084. Interagency Sharing of Records.

(a) A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Section 58.0051, Family Code.

(b) The commissioner may enter into an interagency agreement to share educational information for research and analytical purposes with the:

(1) Texas Juvenile Probation Commission;

(2) Texas Youth Commission;

(3) Texas Department of Criminal Justice; and

(4) Criminal Justice Policy Council.

(c) This section does not require or authorize release of student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

(Enacted by Acts 1999, 76th Leg., ch. 217 (H.B. 1749), § 2, effective May 24, 1999; am. Acts 2011, 82nd Leg., ch. 653 (S.B. 1106), § 1, effective June 17, 2011.)

Sec. 37.085. Arrests Prohibited for Certain Class C Misdemeanors.

Notwithstanding any other provision of law, a warrant may not be issued for the arrest of a person for a Class C misdemeanor under this code committed when the person was younger than 17 years of age.

(Enacted by Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 5, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10, provides:

"(a) Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date.

(b) Section 37.085, Education Code, as added by this Act, applies to an offense committed before, on, or after the effective date of this Act."

SUBCHAPTER D
PROTECTION OF BUILDINGS AND GROUNDS

Sec. 37.101. Applicability of Criminal Laws.

The criminal laws of the state apply in the areas under the control and jurisdiction of the board of trustees of any school district in this state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.102. Rules; Penalty.

(a) The board of trustees of a school district may adopt rules for the safety and welfare of students, employees, and property and other rules it considers necessary to carry out this subchapter and the governance of the district, including rules providing for the operation and parking of vehicles on school property. The board may adopt and charge a reasonable fee for parking and for providing traffic control.

(b) A law or ordinance regulating traffic on a public highway or street applies to the operation of a vehicle on school property, except as modified by this subchapter.

(c) A person who violates any rule adopted under this subchapter providing for the operation and parking of vehicles on school property commits an offense. An offense under this section is a Class C misdemeanor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1167 (H.B. 278), § 1, effective September 1, 2007.)

Sec. 37.103. Enforcement of Rules.

Notwithstanding any other provision of this subchapter, the board of trustees of a school district may

authorize any officer commissioned by the board to enforce rules adopted by the board. This subchapter is not intended to restrict the authority of each district to adopt and enforce appropriate rules for the orderly conduct of the district in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.104. Courts Having Jurisdiction.

The judge of a municipal court of a municipality in which, or any justice of the peace of a county in which, property under the control and jurisdiction of a school district is located may hear and determine criminal cases involving violations of this subchapter or rules adopted under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.105. Unauthorized Persons: Refusal of Entry, Ejection, Identification.

The board of trustees of a school district or its authorized representative may refuse to allow a person without legitimate business to enter on property under the board's control and may eject any undesirable person from the property on the person's refusal to leave peaceably on request. Identification may be required of any person on the property.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.106. Vehicle Identification Insignia.

The board of trustees of a school district may provide for the issuance and use of suitable vehicle identification insignia. The board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule adopted by the board or of this subchapter. Reinstatement of the privileges may be permitted and a reasonable fee assessed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.107. Trespass on School Grounds.

An unauthorized person who trespasses on the grounds of any school district of this state commits an offense. An offense under this section is a Class C misdemeanor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.108. Multihazard Emergency Operations Plan; Safety and Security Audit.

(a) Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address mitigation, preparedness, response, and recovery as defined by the commissioner of education or commissioner of higher education in conjunction with the governor's office of homeland security. The plan must provide for:

(1) district employee training in responding to an emergency;

(2) if the plan applies to a school district, mandatory school drills and exercises to prepare district students and employees for responding to an emergency;

(3) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

(4) the implementation of a safety and security audit as required by Subsection (b).

(b) At least once every three years, each school district or public junior college district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.

(c) A school district or public junior college district shall report the results of the safety and security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center.

(c-1) Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure under Chapter 552, Government Code.

(c-2) A document relating to a school district's or public junior college district's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

(1) verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

(2) verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;

(3) verify that the plan addresses the four phases of emergency management under Subsection (a);

(4) verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

(5) verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

(6) if the district is a school district, verify that the district has established a plan for responding to a train derailment if required under Subsection (d);

(7) verify that the district has completed a safety and security audit under Subsection (b) and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the district's board of trustees;

(8) verify that the district has addressed any recommendations by the district's board of trustees for improvement of the plan and determine the district's progress within the last 12 months; and

(9) if the district is a school district, verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

(d) A school district shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school. A school district is only required to adopt the policy described by this subsection if a district school is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. The school district may use any available community resources in developing the policy described by this subsection.

(Enacted by Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), art. 3, § 3.02, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1326 (S.B. 1504), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, §§ 6.01, 6.02, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 6.16 provides: "Sections 37.108(c-1) and (c-2), and Sections 51.217(d) and (e), Education Code, as added by this article, apply only to a request for documents or information that is received on or after the effective date of this article [September 1, 2009]. A request for documents or information that was received before the effective date of this article is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 37.1081. [Expires September 1, 2017] School Safety Certification Program.

(a) The Texas School Safety Center, in consultation with the School Safety Task Force established under Section 37.1082, shall develop a school safety certification program.

(b) The Texas School Safety Center shall award a school safety certificate to a school district that:

(1) has adopted and implemented a multihazard emergency operations plan as required under Section 37.108 and that includes in that plan:

(A) measures for security of facilities and grounds;

(B) measures for communication with parents and the media in the event of an emergency; and

(C) an outline of safety training for school employees;

(2) demonstrates to the center with current written self-audit processes that the district conducts at least one drill per year for each of the following types of drills:

(A) a school lockdown drill;

(B) an evacuation drill;

(C) a weather-related emergency drill;

(D) a reverse evacuation drill; and

(E) a shelter-in-place drill;

(3) is in compliance with Sections 37.108(b) and (c); and

(4) meets any other eligibility criteria as recommended by the School Safety Task Force.

(c) The certification program is abolished and this section expires September 1, 2017.

(Enacted by Acts 2013, 83rd Leg., ch. 620 (S.B. 1556), § 1, effective June 14, 2013.)

Sec. 37.1082. [Expires September 1, 2017] School Safety Task Force.

(a) The School Safety Task Force is established to:

(1) study, on an ongoing basis, best practices for school multihazard emergency operations planning; and

(2) based on those studies, make recommendations to the legislature, the Texas School Safety Center, and the governor's office of homeland security.

(b) The task force is composed of:

(1) the chief of the Texas Division of Emergency Management, or the chief's designee;

(2) the training director of the Advanced Law Enforcement Rapid Response Training Center at

Texas State University—San Marcos, or the training director's designee;

(3) the chairperson of the Texas School Safety Center, or the chairperson's designee; and

(4) the agency director of the Texas A&M Engineering Extension Service, or the agency director's designee.

(c) The chief of the Texas Division of Emergency Management, or the chief's designee, shall serve as the presiding officer of the task force.

(d) A member of the task force is not entitled to compensation for service on the task force but is entitled to reimbursement for actual and necessary expenses incurred in performing task force duties.

(e) In performing the task force's duties under this section for schools, the task force shall consult with and consider recommendations from school district and school personnel, including school safety personnel and educators, and from first responders, emergency managers, local officials, representatives of appropriate nonprofit organizations, and other interested parties with knowledge and experience concerning school emergency operations planning.

(f) Not later than September 1 of each even-numbered year, the task force shall prepare and submit to the legislature a report concerning the results of the task force's most recent study, including any recommendations for statutory changes the task force considers necessary or appropriate to improve school multihazard emergency operations.

(g) The task force is abolished and this section expires September 1, 2017.

(Enacted by Acts 2013, 83rd Leg., ch. 620 (S.B. 1556), § 1, effective June 14, 2013.)

Sec. 37.109. School Safety and Security Committee.

(a) In accordance with guidelines established by the Texas School Safety Center, each school district shall establish a school safety and security committee.

(b) The committee shall:

(1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan required by Section 37.108(a) to ensure that the plans reflect specific campus, facility, or support services needs;

(2) provide the district with any campus, facility, or support services information required in connection with a safety and security audit required by Section 37.108(b), a safety and security audit report required by Section 37.108(c), or another report required to be submitted by the district to the Texas School Safety Center; and

(3) review each report required to be submitted by the district to the Texas School Safety Center to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center.

(Enacted by Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 6.03, effective September 1, 2009.)

Sec. 37.110. Information Regarding Gang-Free Zones.

The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

(Enacted by Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 4, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 7 provides: "Section 37.110, Education Code, as added by this Act, applies beginning with the public school district's 2009-2010 school year."

SUBCHAPTER E
PENAL PROVISIONS

Sec. 37.121. Fraternities, Sororities, Secret Societies, and Gangs.

(a) A person commits an offense if the person:

(1) is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or

(2) is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary alternative education program any student under the person's control who violates Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free

choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 23, effective June 20, 2003.)

Sec. 37.122. Possession of Intoxicants on Public School Grounds.

(a) A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

(1) on the grounds or in a building of a public school; or

(2) entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

(b) An officer of this state who sees a person violating this section shall immediately seize the intoxicating beverage and, within a reasonable time, deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor.

(c) An offense under this section is a Class C misdemeanor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.123. Disruptive Activities.

(a) A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any private or public school.

(b) For purposes of this section, disruptive activity is:

(1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school;

(2) seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity;

(3) preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;

(4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or

(5) obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.

(c) An offense under this section is a Class B misdemeanor.

(d) Any person who is convicted the third time of violating this section is ineligible to attend any institution of higher education receiving funds from this state before the second anniversary of the third conviction.

(e) This section may not be construed to infringe on any right of free speech or expression guaranteed by the constitution of the United States or of this state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.124. Disruption of Classes.

(a) A person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

(b) An offense under this section is a Class C misdemeanor.

(c) In this section:

(1) "Disrupting the conduct of classes or other school activities" includes:

(A) emitting noise of an intensity that prevents or hinders classroom instruction;

(B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;

(C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and

(D) entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities.

(2) "Public property" includes a street, highway, alley, public park, or sidewalk.

(3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a

school for an assembly or other school-sponsored activity.

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was younger than 12 years of age.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 10, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 6, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 8 provides: "The change in law made by Sections 37.124, Education Code, 37.126, Education Code, and 42.01, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 9 provides: "This Act applies beginning with the 2011—2012 school year."

Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10(a) provides: "Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date."

Sec. 37.125. Exhibition of Firearms.

(a) A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to exhibit or use a firearm:

(1) in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or

(2) on a school bus being used to transport children to or from school-sponsored activities of a private or public school.

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

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995 am. Acts 2007, 80th Leg., ch. 704 (H.B. 2112), § 1, effective September 1, 2007.)

Sec. 37.126. Disruption of Transportation.

(a) Except as provided by Section 37.125, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

(b) An offense under this section is a Class C misdemeanor.

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was younger than 12 years of age.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 5, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 11, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 7, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 8 provides: "The change in law made by Sections 37.124, Education Code, 37.126, Education Code, and 42.01, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 9 provides: "This Act applies beginning with the 2011—2012 school year."

Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10(a) provides: "Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date."

SUBCHAPTER E-1
CRIMINAL PROCEDURE

Sec. 37.141. Definitions.

In this subchapter:

(1) "Child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure, except that the person must also be a student.

(2) "School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor other than a traffic offense and that is committed on property under the control and jurisdiction of a school district.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.142. Conflict of Law.

To the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.143. Citation Prohibited; Custody of Child.

(a) A peace officer may not issue a citation to a child who is alleged to have committed a school offense.

(b) This subchapter does not prohibit a child from being taken into custody under Section 52.01, Family Code.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.144. Graduated Sanctions for Certain School Offenses.

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

(1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;

(2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;

(3) the performance of school-based community service by the child; and

(4) the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.145. Complaint.

If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.146. Requisites of Complaint.

(a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

(1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and

(2) be accompanied by a statement from a school employee stating:

(A) whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and

(B) the graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.147. Prosecuting Attorneys.

An attorney representing the state in a court with jurisdiction may adopt rules pertaining to the filing of a complaint under this subchapter that the state considers necessary in order to:

(1) determine whether there is probable cause to believe that the child committed the alleged offense;

(2) review the circumstances and allegations in the complaint for legal sufficiency; and

(3) see that justice is done.

(Enacted by Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

SUBCHAPTER F
HAZING

Sec. 37.151. Definitions.

In this subchapter:

(1) "Educational institution" includes a public or private high school.

(2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.

(3) "Pledging" means any action or activity related to becoming a member of an organization.

(4) "Student" means any person who:

(A) is registered in or in attendance at an educational institution;

(B) has been accepted for admission at the educational institution where the hazing incident occurs; or

(C) intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.

(5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or service, social, or similar group, whose members are primarily students.

(6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization. The term includes:

(A) any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;

(B) any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(C) any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(D) any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this subdivision; and

(E) any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.152. Personal Hazing Offense.

(a) A person commits an offense if the person:

(1) engages in hazing;

(2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;

(3) recklessly permits hazing to occur; or

(4) has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.

(b) The offense of failing to report is a Class B misdemeanor.

(c) Any other offense under this section that does not cause serious bodily injury to another is a Class B misdemeanor.

(d) Any other offense under this section that causes serious bodily injury to another is a Class A misdemeanor.

(e) Any other offense under this section that causes the death of another is a state jail felony.

(f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on a person placed on community supervision under Section 11, Article 42.12, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.153. Organization Hazing Offense.

(a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $5,000 nor more than $10,000; or

(2) if the court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than $5,000 nor more than double the amount lost or expenses incurred because of the injury, damage, or loss.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.154. Consent Not a Defense.

It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.155. Immunity from Prosecution Available.

In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.156. Offenses in Addition to Other Penal Provisions.

This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institution to enforce its own penalties against hazing.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 37.157. Reporting by Medical Authorities.

A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

(1) may report the suspected hazing activities to police or other law enforcement officials; and

(2) is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER G
TEXAS SCHOOL SAFETY CENTER

Sec. 37.201. Definition.

In this subchapter, "center" means the Texas School Safety Center.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.202. Purpose.

The purpose of the center is to serve as:

(1) a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs;

(2) a central registry of persons providing school safety and security consulting services in the state; and

(3) a resource for the prevention of youth violence and the promotion of safety in the state.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, § 6.04, effective September 1, 2009.)

Sec. 37.203. Board.

(a) The center is advised by a board of directors composed of:

(1) the attorney general, or the attorney general's designee;

(2) the commissioner, or the commissioner's designee;

(3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;

(4) the executive commissioner of the Texas Youth Commission, or the executive commissioner's designee;

(5) the commissioner of the Department of State Health Services, or the commissioner's designee;

(6) the commissioner of higher education, or the commissioner's designee; and

(7) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and

(I) two members of the public.

(b) Members of the board appointed under Subsection (a)(7) serve staggered two-year terms, with the terms of the members described by Subsections (a)(7)(A)—(E) expiring on February 1 of each odd-numbered year and the terms of the members described by Subsections (a)(7)(F)—(I) expiring on February 1 of each even-numbered year. A member may serve more than one term.

(c) The board may form committees as necessary.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 2, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), art. 3, § 3.03, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 263 (S.B. 103), § 4, effective June 8, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 7, § 7.005, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, §§ 6.05, 6.06, effective September 1, 2009.)

Sec. 37.204. Officers; Meetings; Compensation.

(a) The board shall annually elect from among its members a chairperson and a vice chairperson.

(b) The board shall meet at least four times each year.

(c) A member of the board may not receive compensation but is entitled to reimbursement of the travel expenses incurred by the member while con-

ducting the business of the board as provided by the General Appropriations Act.
(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.205. Safety Training Programs.

The center shall conduct for school districts a safety training program that includes:

(1) development of a positive school environment and proactive safety measures designed to address local concerns;

(2) school safety courses for law enforcement officials, with a focus on school district police officers and school resource officers;

(3) discussion of school safety issues with parents and community members; and

(4) assistance in developing a multihazard emergency operations plan for adoption under Section 37.108.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 3, effective September 1, 2005.)

Sec. 37.2051. Security Criteria for Instructional Facilities [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 620 (S.B. 1556), § 3, effective June 14, 2013.
(Enacted by Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 4, effective September 1, 2005.)

Sec. 37.206. School Safety Summit [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 8, effective September 1, 2005.
(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.207. Model Safety and Security Audit Procedure.

(a) The center shall develop a model safety and security audit procedure for use by school districts and public junior college districts that includes:

(1) providing each district with guidelines showing proper audit procedures;

(2) reviewing elements of each district audit and making recommendations for improvements in the state based on that review; and

(3) incorporating the findings of district audits in a statewide report on school safety and security made available by the center to the public.

(b) Each school district shall report the results of its audits to the center in the manner required by the center.
(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), art. 3, § 3.04, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, § 6.07, effective September 1, 2009.)

Sec. 37.208. On-Site Assistance.

On request of a school district, the center may provide on-site technical assistance to the district for:

(1) school safety and security audits; and

(2) school safety and security information and presentations.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 5, effective September 1, 2005.)

Sec. 37.209. Center Website.

The center shall develop and maintain an interactive Internet website that includes:

(1) quarterly news updates related to school safety and security and violence prevention;

(2) school crime data;

(3) a schedule of training and special events; and

(4) a list of persons who provide school safety or security consulting services in this state and are registered in accordance with Section 37.2091.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, § 6.08, effective September 1, 2009.)

Sec. 37.2091. Registry of Persons Providing School Safety or Security Consulting Services.

(a) In this section, "school safety or security consulting services" includes any service provided to a school district, institution of higher education, district facility, or campus by a person consisting of advice, information, recommendations, data collection, or safety and security audit services relevant to school safety and security, regardless of whether the person is paid for those services.

(b) The center shall establish a registry of persons providing school safety or security consulting services in this state.

(c) Each person providing school safety or security consulting services in this state shall register with the center in accordance with requirements established by the center. The requirements must include provisions requiring a person registering with the center to provide information regarding:

(1) the person's background, education, and experience that are relevant to the person's ability to

provide knowledgeable and effective school safety or security consulting services; and

(2) any complaints or pending litigation relating to the person's provision of school safety or security consulting services.

(d) The registry is intended to serve only as an informational resource for school districts and institutions of higher education. The inclusion of a person in the registry is not an indication of the person's qualifications or ability to provide school safety or security consulting services or that the center endorses the person's school safety or security consulting services.

(e) The center shall include information regarding the registry, including the number of persons registered and the general degree of school safety or security experience possessed by those persons, in the biennial report required by Section 37.216.

(Enacted by Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 6.09, effective September 1, 2009.)

Sec. 37.210. Essay Contest [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 6.15, effective September 1, 2009.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.211. Recognition of Schools.

The center shall provide for the public recognition of schools that implement effective school safety measures and violence prevention.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.212. Interagency Cooperation.

The center shall promote cooperation between state agencies, institutions of higher education, and any local juvenile delinquency prevention councils to address discipline and safety issues in the state.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.2121. Memoranda of Understanding and Mutual Aid Agreements.

(a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:

(1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;

(2) the effective date of each memorandum or agreement; and

(3) a summary of each memorandum or agreement.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

(Enacted by Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 6.09, effective September 1, 2009.)

Sec. 37.213. Public Junior Colleges.

(a) In this section, "public junior college" has the meaning assigned by Section 61.003.

(b) The center shall research best practices regarding emergency preparedness of public junior colleges and serve as a clearinghouse for that information.

(c) The center shall provide public junior colleges with training, technical assistance, and published guidelines or templates, as appropriate, in the following areas:

(1) multihazard emergency operations plan development;

(2) drill and exercise development and implementation;

(3) mutual aid agreements;

(4) identification of equipment and funds that may be used by public junior colleges in an emergency; and

(5) reporting in accordance with 20 U.S.C. Section 1092(f).

(Enacted by y Acts 2007, 80th Leg., ch. 258 (S.B. 11), art. 3, § 3.05, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, § 6.10, effective September 1, 2009.)

Sec. 37.214. Authority to Accept Certain Funds.

The center may solicit and accept gifts, grants, and donations from public and private entities to use for the purposes of this subchapter.
(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001.)

Sec. 37.215. Budget.

(a) The board shall annually approve a budget for the center.

(b) The center shall biannually prepare a budget request for submission to the legislature.
(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 6, effective September 1, 2005.)

Sec. 37.216. Biennial Report.

(a) Not later than January 1 of each odd-numbered year, the board shall provide a report to the governor, the legislature, the State Board of Education, and the agency.

(b) The biennial report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.
(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), art. 6, § 6.11, effective September 1, 2009.)

Sec. 37.2161. School Safety and Security Progress Report.

(a) The center shall periodically provide a school safety and security progress report to the governor, the legislature, the State Board of Education, and the agency that contains current information regarding school safety and security in the school districts and public junior college districts of this state based on:

(1) elements of each district's multihazard emergency operations plan required by Section 37.108(a);

(2) elements of each district's safety and security audit required by Section 37.108(b); and

(3) any other report required to be submitted to the center.

(b) The center shall establish guidelines regarding the specific information to be included in the report required by this section.

(c) The center may provide the report required by this section in conjunction with the report required by Section 37.216.
(Enacted by Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 6.12, effective September 1, 2009.)

Sec. 37.217. Community Education Relating to Internet Safety.

(a) The center, in cooperation with the attorney general, shall develop a program that provides instruction concerning Internet safety, including instruction relating to:

(1) the potential dangers of allowing personal information to appear on an Internet website;

(2) the manner in which to report an inappropriate online solicitation; and

(3) the prevention, detection, and reporting of bullying or threats occurring over the Internet.

(b) In developing the program, the center shall:

(1) solicit input from interested stakeholders; and

(2) to the extent practicable, draw from existing resources and programs.

(c) The center shall make the program available to public schools.
(Enacted by Acts 2007, 80th Leg., ch. 343 (S.B. 136), § 1, effective June 15, 2007.)

Sec. 37.218. Programs on Dangers of Students Sharing Visual Material Depicting Minor Engaged in Sexual Conduct.

(a) In this section:

(1) "Bullying" has the meaning assigned by Section 25.0342.

(2) "Cyberbullying" means the use of any electronic communication device to engage in bullying or intimidation.

(3) "Harassment" has the meaning assigned by Section 37.001.

(4) "Sexual conduct" has the meaning assigned by Section 43.25, Penal Code.

(b) The center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

(1) the possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;

(2) other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:

(A) negative effects on relationships;

(B) loss of educational and employment opportunities; and

(C) possible removal, if applicable, from certain school programs or extracurricular activities;

(3) the unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:

(A) search and replication capabilities; and

(B) a potentially worldwide audience;

(4) the prevention of, identification of, responses to, and reporting of incidents of bullying; and

(5) the connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

(c) Each school district shall annually provide or make available information on the programs developed under Subsection (b) to parents and students in a grade level the district considers appropriate. Each district shall provide or make available the information by any means the district considers appropriate.

(Enacted by Acts 2011, 82nd Leg., ch. 1322 (S.B. 407), § 22, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1322 (S.B. 407), § 23(b) provides: "Subsection (c), Section 37.218, Education Code, as added by this Act, applies beginning with the 2012-2013 school year."

SUBCHAPTER I
PLACEMENT OF REGISTERED SEX OFFENDERS

Sec. 37.301. Definition.

In this subchapter, "board of trustees" includes the board's designee.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.302. Applicability.

This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure, including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.303. Removal of Registered Sex Offender from Regular Classroom.

Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a student is required to register as a sex offender under that chapter, a school district shall remove the student from the regular classroom and determine the appropriate placement of the student in the manner provided by this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.304. Placement of Registered Sex Offender Who Is Under Court Supervision.

(a) A school district shall place a student to whom this subchapter applies and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program as provided by Section 37.309 for at least one semester.

(b) If a student transfers to another school district during the student's mandatory placement in an alternative education program under Subsection (a), the district to which the student transfers may:

(1) require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester under Section 37.306; or

(2) count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement under Subsection (a).

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.305. Placement of Registered Sex Offender Who Is Not Under Court Supervision.

A school district may place a student to whom this subchapter applies and who is not under any form of court supervision in the appropriate alternative education program as provided by Section 37.309 for one semester or in the regular classroom. The district may not place the student in the regular classroom if the district board of trustees determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.306. Review of Placement in Alternative Education Program.

(a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

(1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;

(2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;

(3) an instructor from the alternative education program to which the student is assigned;

(4) a school district designee selected by the board of trustees; and

(5) a school counselor employed by the school district.

(b) The committee by majority vote shall determine and recommend to the school district board of trustees whether the student should be returned to the regular classroom or remain in the alternative education program.

(c) If the committee recommends that the student be returned to the regular classroom, the board of trustees shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

(d) If the committee recommends that the student remain in the alternative education program, the board of trustees shall continue the student's placement in the alternative education program unless the board determines that the student's presence in the regular classroom:

(1) does not threaten the safety of other students or teachers;

(2) will not be detrimental to the educational process; and

(3) is not contrary to the best interests of the district's students.

(e) If, after receiving a recommendation under Subsection (b), the school district board of trustees determines that the student should remain in an alternative education program, the board shall before the beginning of each school year convene the committee described by Subsection (a) to review, in the manner provided by Subsections (b), (c), and (d), the student's placement in an alternative education program.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 33, effective June 14, 2013.)

Sec. 37.307. Placement and Review of Student with Disability.

(a) The placement under this subchapter of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(b) The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. The admission, review, and dismissal committee may request that the board of trustees convene a committee described by Section 37.306(a) to assist the admission, review, and dismissal committee in conducting the review.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.308. Transfer of Registered Sex Offender.

Except as provided by Section 37.304(b), a school district shall determine whether to place a student to whom this subchapter applies and who transfers to the district in the appropriate alternative education program as provided by Section 37.309 or in a regular classroom. The school district shall follow the procedures specified under Section 37.306 in making the determination.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.309. Placement in Disciplinary Alternative Education Program or Juvenile Justice Alternative Education Program.

(a) Except as provided by Subsection (b), a school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a disciplinary alternative education program.

(b) A school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a juvenile justice alternative education program if:

(1) the memorandum of understanding entered into between the school district and juvenile board under Section 37.011(k) provides for the placement of students to whom this subchapter applies in the juvenile justice alternative education program; or

(2) a court orders the placement of the student in a juvenile justice alternative education program.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.310. Funding for Registered Sex Offender Placed in Juvenile Justice Alternative Education Program.

A juvenile justice alternative education program is entitled to funding for a student who is placed in the program under this subchapter in the same manner as a juvenile justice alternative education program is entitled to funding under Section 37.012 for a student who is expelled and placed in a juvenile justice alternative education program for conduct for which expulsion is permitted but not required under Section 37.007.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.311. Conference.

(a) A student or the student's parent or guardian may appeal a decision by a school district board of trustees to place the student in an alternative education program under this subchapter by requesting a conference among the board of trustees, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) If the school district board of trustees determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the student is subject to placement in an alternative education program in the manner provided by this subchapter.

(c) A decision by the board of trustees under this section is final and may not be appealed.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.312. Liability.

This subchapter does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

Sec. 37.313. Conflicts of Law.

To the extent of any conflict between a provision of this subchapter and a provision of Subchapter A, this subchapter prevails.

(Enacted by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 3, effective June 15, 2007; Enacted by Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 3, effective September 1, 2007.)

CHAPTER 38
HEALTH AND SAFETY

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 38.001. Immunization; Requirements; Exceptions.

(a) Each student shall be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided by Subsection (c).

(b) **[2 Versions: As amended by Acts 2007, 80th Leg., ch. 43]** Subject to Subsections (b-1) and (c), the executive commissioner of the Health and Human Services Commission may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b) **[2 Versions: As amended by Acts 2007, 80th Leg., ch. 94]** Subject to Subsection (c), the Department of State Health Services may modify or delete any of the immunizations in Subsection (a) or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

(b-1) Each year, the Department of State Health Services shall prepare a list of the immunizations required under this section for admission to public schools and of any additional immunizations the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019.

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian

stating that the applicant declines immunization for reasons of conscience, including a religious belief; or

(2) is a member of the armed forces of the United States and is on active duty.

(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(d) The Department of State Health Services shall provide the required immunization to children in areas where no local provision exists to provide those services.

(e) A person may be provisionally admitted to an elementary or secondary school if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The Department of State Health Services shall adopt rules relating to the provisional admission of persons to an elementary or secondary school.

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), art. 2, § 2.160, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 43 (H.B. 1098), § 1, effective May 8, 2007; am. Acts 2007, 80th Leg., ch. 94 (H.B. 1059), § 2, effective May 15, 2007.)

Sec. 38.002. Immunization Records; Reporting.

(a) Each public school shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of Health.

(b) Each public school shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records.

(c) The Texas Education Agency and the Texas Department of Health shall develop the form for a required annual report of the immunization status of students. The report shall be submitted by all schools at the time and in the manner indicated in the instructions printed on the form.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 38.0025. Dissemination of Bacterial Meningitis Information.

(a) The agency shall prescribe procedures by which each school district shall provide information relating to bacterial meningitis to its students and their parents each school year. The procedures must ensure that the information is reasonably likely to come to the attention of the parents of each student. The agency shall prescribe the form and content of the information. The information must cover:

(1) the symptoms of the disease, how it may be diagnosed, and its possible consequences if untreated;

(2) how the disease is transmitted, how it may be prevented, and the relative risk of contracting the disease for primary and secondary school students;

(3) the availability and effectiveness of vaccination against and treatment for the disease, and a brief description of the risks and possible side effects of vaccination; and

(4) sources of additional information regarding the disease, including any appropriate office of the school district and the appropriate office of the Texas Department of Health.

(b) The agency shall consult with the Texas Department of Health in prescribing the content of the information to be provided to students under this section. The agency shall establish an advisory committee to assist the agency in the initial implementation of this section. The advisory committee must include at least two members who are parents of students at public schools in this state.

(c) A school district, with the written consent of the agency, may provide the information required by this section to its students and their parents by a method different from the method prescribed by the agency under Subsection (a) if the agency determines that method would be effective in bringing the information to the attention of the parents of each student.

(Enacted by Acts 2001, 77th Leg., ch. 219 (S.B. 31), § 2, effective May 22, 2001.)

Sec. 38.003. Screening and Treatment for Dyslexia and Related Disorders.

(a) Students enrolling in public schools in this state shall be tested for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education.

(b) In accordance with the program approved by the State Board of Education, the board of trustees

of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder.

(b-1) Unless otherwise provided by law, a student determined to have dyslexia during testing under Subsection (a) or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous testing of the student.

(c) The State Board of Education shall adopt any rules and standards necessary to administer this section.

(d) In this section:

(1) "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity.

(2) "Related disorders" includes disorders similar to or related to dyslexia, such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 3, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 6(a) provides: "Except as provided by Subsections (b) and (c) of this section, this Act applies beginning with the 2011-2012 school year."

Sec. 38.0031. Classroom Technology Plan for Students with Dyslexia.

(a) The agency shall establish a committee to develop a plan for integrating technology into the classroom to help accommodate students with dyslexia. The plan must:

(1) determine the classroom technologies that are useful and practical in assisting public schools in accommodating students with dyslexia, considering budget constraints of school districts; and

(2) develop a strategy for providing those effective technologies to students.

(b) The agency shall provide the plan and information about the availability and benefits of the technologies identified under Subsection (a)(1) to school districts.

(c) A member of the committee established under Subsection (a) is not entitled to reimbursement for travel expenses incurred by the member under this section unless agency funds are available for that purpose.

(Enacted by Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 4, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 635 (S.B. 866), § 6(a) provides: "Except as provided by Subsections (b) and (c) of this section, this Act applies beginning with the 2011-2012 school year."

Sec. 38.004. Child Abuse Reporting and Programs.

(a) The agency shall develop a policy governing the reports of child abuse or neglect required by Chapter 261, Family Code, of school districts, open-enrollment charter schools, and their employees. The policy must provide for cooperation with law enforcement child abuse investigations without the consent of the child's parents if necessary, including investigations by the Department of Family and Protective Services. The policy must require each school district and open-enrollment charter school employee to report child abuse or neglect in the manner required by Chapter 261, Family Code. Each school district and open-enrollment charter school shall adopt the policy.

(a-1) The agency shall:

(1) maintain on the agency Internet website a list of links to websites that provide information regarding the prevention of child abuse; and

(2) develop and periodically update a training program on prevention of child abuse that a school district may use for staff development.

(b) Each school district shall provide child abuse antivictimization programs in elementary and secondary schools.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 561 (S.B. 1456), § 1, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 592 (S.B. 939), § 1, effective September 1, 2013.)

Sec. 38.0041. Policies Addressing Sexual Abuse and Other Maltreatment of Children.

(a) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse and other maltreatment of children, to be included in the district improvement plan under Section 11.252 and any informational handbook provided to students and parents.

(b) A policy required by this section must address:

(1) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, using resources developed by the agency under Section 38.004;

(2) actions that a child who is a victim of sexual

abuse or other maltreatment should take to obtain assistance and intervention; and

(3) available counseling options for students affected by sexual abuse or other maltreatment.

(c) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 443]** The methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse and other maltreatment of children must include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children. The training:

(1) must be provided, as part of a new employee orientation, to new school district and open-enrollment charter school educators, including school counselors and coaches, and other district and charter school professional staff members;

(2) may be provided annually to any district or charter school staff member; and

(3) must include training concerning:

(A) factors indicating a child is at risk for sexual abuse or other maltreatment;

(B) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(C) internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

(D) techniques for reducing a child's risk of sexual abuse or other maltreatment; and

(E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

(c) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 592]** The methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse and other maltreatment of children must include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children. The training:

(1) must be provided, as part of a new employee orientation, to all new school district and open-enrollment charter school employees and to existing district and open-enrollment charter school employees on a schedule adopted by the agency by rule until all district and open-enrollment charter school employees have taken the training; and

(2) must include training concerning:

(A) factors indicating a child is at risk for sexual abuse or other maltreatment;

(B) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(C) internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

(D) techniques for reducing a child's risk of sexual abuse or other maltreatment; and

(E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

(d) For any training under Subsection (c), each school district and open-enrollment charter school shall maintain records that include the name of each district or charter school staff member who participated in the training.

(e) If a school district or open-enrollment charter school determines that the district or charter school does not have sufficient resources to provide the training required under Subsection (c), the district or charter school shall work in conjunction with a community organization to provide the training at no cost to the district or charter school.

(f) The training under Subsection (c) may be included in staff development under Section 21.451.

(g) A school district or open-enrollment charter school employee may not be subject to any disciplinary proceeding, as defined by Section 22.0512(b), resulting from an action taken in compliance with this section. The requirements of this section are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section 22.0511. Nothing in this section may be considered to limit the immunity from liability provided under Section 22.0511.

(h) For purposes of this section, "other maltreatment" has the meaning assigned by Section 42.002, Human Resources Code.

(Enacted by Acts 2009, 81st Leg., ch. 1115 (H.B. 1041), § 2, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1323 (S.B. 471), § 2, effective June 17, 2011 am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 34, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 592 (S.B. 939), § 2, effective September 1, 2013.)

Sec. 38.0042. Posting Child Abuse Hotline Telephone Number.

(a) Each public school and open-enrollment charter school shall post in a clearly visible location in a public area of the school that is readily accessible to

students a sign in English and in Spanish that contains the toll-free telephone number operated by the Department of Family and Protective Services to receive reports of child abuse or neglect.

(b) The commissioner may adopt rules relating to the size and location of the sign required by Subsection (a).

(Enacted by Acts 2013, 83rd Leg., ch. 592 (S.B. 939), § 3, effective September 1, 2013.)

Sec. 38.005. Protective Eye Devices in Public Schools.

Each teacher and student must wear industrial-quality eye-protective devices in appropriate situations as determined by school district policy.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 38.006. Tobacco on School Property.

The board of trustees of a school district shall:

(1) prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property;

(2) prohibit students from possessing tobacco products at a school-related or school-sanctioned activity on or off school property; and

(3) ensure that school personnel enforce the policies on school property.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 38.007. Alcohol-Free School Zones.

(a) The board of trustees of a school district shall prohibit the use of alcoholic beverages at a school-related or school-sanctioned activity on or off school property.

(b) The board of trustees of a school district shall attempt to provide a safe alcohol-free environment to students coming to or going from school. The board of trustees may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage Code. Additionally, the board, if a majority of the area of a district is located in a municipality with a population of 900,000 or more, may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 38.008. Posting of Steroid Law Notice.

Each school in a school district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted the following notice:

Anabolic steroids are for medical use only. State law prohibits possessing, dispensing, delivering, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 25, § 25.050, effective September 1, 2009.)

Sec. 38.0081. Information About Steroids.

(a) The agency, in conjunction with the Department of State Health Services, shall:

(1) develop information about the use of anabolic steroids and the health risks involved with such use; and

(2) distribute the information to school districts.

(b) Each school district shall, at appropriate grade levels as determined by the State Board of Education, provide the information developed under Subsection (a) to district students, particularly to those students involved in extracurricular athletic activities.

(Enacted by Acts 2005, 79th Leg., ch. 1177 (H.B. 3563), § 2, effective June 18, 2005.)

Sec. 38.009. Access to Medical Records.

(a) A school administrator, nurse, or teacher is entitled to access to a student's medical records maintained by the school district for reasons determined by district policy.

(b) A school administrator, nurse, or teacher who views medical records under this section shall maintain the confidentiality of those medical records.

(c) This section does not authorize a school administrator, nurse, or teacher to require a student to

be tested to determine the student's medical condition or status.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 38.0095. Parental Access to Medical Records.

(a) A parent or guardian of a student is entitled to access to the student's medical records maintained by a school district.

(b) On request of a student's parent or guardian, the school district shall provide a copy of the student's medical records to the parent or guardian. The district may not impose a charge for providing the copy that exceeds the charge authorized by Section 552.261, Government Code, for providing a copy of public information.
(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 3, effective June 19, 1999.)

Sec. 38.010. Outside Counselors.

(a) A school district or school district employee may not refer a student to an outside counselor for care or treatment of a chemical dependency or an emotional or psychological condition unless the district:

(1) obtains prior written consent for the referral from the student's parent;

(2) discloses to the student's parent any relationship between the district and the outside counselor;

(3) informs the student and the student's parent of any alternative public or private source of care or treatment reasonably available in the area;

(4) requires the approval of appropriate school district personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted; and

(5) specifically prohibits any disclosure of a student record that violates state or federal law.

(b) In this section, "parent" includes a managing conservator or guardian.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 38.011. Dietary Supplements.

(a) A school district employee may not:

(1) knowingly sell, market, or distribute a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school district duties; or

(2) knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school district duties.

(b) This section does not prohibit a school district employee from:

(1) providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or

(2) selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:

(A) do not occur on school property or at a school-related function;

(B) are entirely separate from any aspect of the employee's employment with the school district; and

(C) do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with the school district.

(c) A person who violates this section commits an offense. An offense under this section is a Class C misdemeanor.

(d) In this section:

(1) "Dietary supplement" has the meaning assigned by 21 U.S.C. Section 321 and its subsequent amendments.

(2) "Performance enhancing compound" means a manufactured product for oral ingestion, intranasal application, or inhalation that:

(A) contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and

(B) is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.

(Enacted by Acts 1999, 76th Leg., ch. 1086 (H.B. 3420), § 1, effective September 1, 1999.)

Sec. 38.012. Notice Concerning Health Care Services.

(a) Before a school district or school may expand or change the health care services available at a school in the district from those that were available on January 1, 1999, the board of trustees must:

(1) hold a public hearing at which the board discloses all information on the proposed health care services, including:

(A) all health care services to be provided;

(B) whether federal law permits or requires any health care service provided to be kept confidential from parents;

(C) whether a child's medical records will be accessible to the child's parent;

(D) information concerning grant funds to be used;

(E) the titles of persons who will have access to the medical records of a student; and

(F) the security measures that will be used to protect the privacy of students' medical records; and

(2) approve the expansion or change by a record vote.

(b) A hearing under Subsection (a) must include an opportunity for public comment on the proposal.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 2, effective June 19, 1999.)

Sec. 38.013. Coordinated Health Program for Elementary, Middle, and Junior High School Students.

(a) The agency shall make available to each school district one or more coordinated health programs designed to prevent obesity, cardiovascular disease, oral diseases, and Type 2 diabetes in elementary school, middle school, and junior high school students. Each program must provide for coordinating:

(1) health education, including oral health education;

(2) physical education and physical activity;

(3) nutrition services; and

(4) parental involvement.

(a-1) The commissioner by rule shall adopt criteria for evaluating a coordinated health program before making the program available under Subsection (a). Before adopting the criteria, the commissioner shall request review and comment concerning the criteria from the Department of State Health Services School Health Advisory Committee. The commissioner may make available under Subsection (a) only those programs that meet criteria adopted under this subsection.

(b) The agency shall notify each school district of the availability of the programs.

(c) The commissioner by rule shall adopt criteria for evaluating the nutritional services component of a program under this section that includes an evaluation of program compliance with the Department of Agriculture guidelines relating to foods of minimal nutritional value.

(Enacted by Acts 2001, 77th Leg., ch. 907 (S.B. 19), § 3, effective June 14, 2001; am. Acts 2003, 78th Leg., ch. 944 (S.B. 1357), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 3, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 4, effective June 17, 2005; am. Acts 2013, 83rd Leg., ch. 1399 (H.B. 2483), § 1, effective June 14, 2013.)

Sec. 38.014. Implementation of Coordinated Health Program for Elementary, Middle, and Junior High School Students.

(a) Each school district shall:

(1) participate in appropriate training for the implementation of the program approved by the agency under Section 38.013; and

(2) implement the program in each elementary school, middle school, and junior high school in the district.

(b) The agency, in cooperation with the Texas Department of Health, shall adopt a schedule for regional education service centers to provide necessary training under this section.

(Enacted by Acts 2001, 77th Leg., ch. 907 (S.B. 19), § 3, effective June 14, 2001; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 5, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 6, effective June 17, 2005.)

Sec. 38.0141. Reporting of Certain Health and Safety Information Required.

Each school district shall provide to the agency information as required by the commissioner, including statistics and data, relating to student health and physical activity and information described by Section 28.004(k), presented in a form determined by the commissioner. The district shall provide the information required by this section for the district and for each campus in the district.

(Enacted by Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 7, effective June 17, 2005.)

Sec. 38.015. Self-Administration of Prescription Asthma or Anaphylaxis Medicine by Students.

(a) In this section:

(1) "Parent" includes a person standing in parental relation.

(2) "Self-administration of prescription asthma or anaphylaxis medicine" means a student's discretionary use of prescription asthma or anaphylaxis medicine.

(b) A student with asthma or anaphylaxis is entitled to possess and self-administer prescription

asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

(1) the prescription medicine has been prescribed for that student as indicated by the prescription label on the medicine;

(2) the student has demonstrated to the student's physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;

(3) the self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and

(4) a parent of the student provides to the school:

(A) a written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and

(B) a written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:

(i) that the student has asthma or anaphylaxis and is capable of self-administering the prescription medicine;

(ii) the name and purpose of the medicine;

(iii) the prescribed dosage for the medicine;

(iv) the times at which or circumstances under which the medicine may be administered; and

(v) the period for which the medicine is prescribed.

(c) The physician's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends.

(d) This section does not:

(1) waive any liability or immunity of a governmental unit or its officers or employees; or

(2) create any liability for or a cause of action against a governmental unit or its officers or employees.

(e) The commissioner may adopt rules and prescribe forms to assist in the implementation of this section.

(Enacted by Acts 2001, 77th Leg., ch. 511 (H.B. 1688), § 1, effective June 11, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(19), effective September 1, 2003 (renumbered from Sec. 38.013); am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 10, §§ 10.01, 10.02, effective May 31, 2006.)

Sec. 38.0151. Policies for Care of Certain Students at Risk for Anaphylaxis.

(a) The board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on guidelines developed by the commissioner of state health services in consultation with an ad hoc committee appointed by the commissioner of state health services.

(b) A school district or open-enrollment charter school that implemented a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis before the development of the guidelines described by Subsection (a) shall review the policy and revise the policy as necessary to ensure the policy is consistent with the guidelines.

(b-1) to (b-4) [Expired pursuant to Acts 2011, 82nd Leg., ch. 590 (S.B. 27), § 1, effective June 1, 2012.]

(c) The guidelines described by Subsection (a) may not:

(1) require a school district or open-enrollment charter school to purchase prescription anaphylaxis medication, such as epinephrine, or require any other expenditure that would result in a negative fiscal impact on the district or charter school; or

(2) require the personnel of a district or charter school to administer anaphylaxis medication, such as epinephrine, to a student unless the anaphylaxis medication is prescribed for that student.

(d) This section does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

(e) The agency shall post the guidelines developed by the commissioner of state health services under this section on the agency's website with any other information relating to students with special health needs.

(Enacted by Acts 2011, 82nd Leg., ch. 590 (S.B. 27), § 1, effective June 17, 2011.)

Sec. 38.016. Psychotropic Drugs and Psychiatric Evaluations or Examinations.

(a) In this section:

(1) "Parent" includes a guardian or other person standing in parental relation.

(2) "Psychotropic drug" means a substance that is:

(A) used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and

(B) intended to have an altering effect on perception, emotion, or behavior.

(b) A school district employee may not:

(1) recommend that a student use a psychotropic drug; or

(2) suggest any particular diagnosis; or

(3) use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

(c) Subsection (b) does not:

(1) prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended; or

(2) prohibit a school district employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or

(3) prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.

(d) The board of trustees of each school district shall adopt a policy to ensure implementation and enforcement of this section.

(e) An act in violation of Subsection (b) does not override the immunity from personal liability granted in Section 22.0511 or other law or the district's sovereign and governmental immunity.

(Enacted by Acts 2003, 78th Leg., ch. 1058 (H.B. 1406), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.008, effective September 1, 2007.)

Sec. 38.017. Availability of Automated External Defibrillator.

(a) Each school district shall make available at each campus in the district at least one automated external defibrillator, as defined by Section 779.001, Health and Safety Code. A campus defibrillator must be readily available during any University Interscholastic League athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the principal of the campus shall consider the primary location on campus where students engage in athletic activities.

(b) To the extent practicable, each school district, in cooperation with the University Interscholastic League, shall make reasonable efforts to ensure that an automated external defibrillator is available at each University Interscholastic League athletic practice held at a district campus. If a school district is not able to make an automated external defibrillator available in the manner provided by this subsection, the district shall determine the extent to which an automated external defibrillator must be available at each University Interscholastic League athletic practice held at a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information.

(c) Each school district, in cooperation with the University Interscholastic League, shall determine the extent to which an automated external defibrillator must be available at each University Interscholastic League athletic competition held at a location other than a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with the school district.

(d) Each school district shall ensure the presence at each location at which an automated external defibrillator is required under Subsection (a), (b), or (c) of at least one campus or district employee trained in the proper use of the defibrillator at any time a substantial number of district students are present at the location.

(e) A school district shall ensure that an automated external defibrillator is used and maintained in accordance with standards established under Chapter 779, Health and Safety Code.

(f) This section does not:

(1) waive any immunity from liability of a school district or its officers or employees;

(2) create any liability for or a cause of action against a school district or its officers or employees; or

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code.

(g) This subsection applies only to a private school that receives an automated external defibrillator from the agency or receives funding from the agency to purchase or lease an automated external defibrillator. A private school shall:

(1) make available at the school at least one automated external defibrillator; and

(2) in coordination with the Texas Association of Private and Parochial Schools, adopt a policy concerning the availability of an automated external defibrillator at athletic competitions and practices in a manner consistent with the requirements prescribed by this section, including the

training and maintenance requirements prescribed by this section.

(h) A school district may seek and accept gifts, grants, or other donations to pay the district's cost of purchasing automated external defibrillators required under this section.

(Enacted by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 6, effective June 15, 2007.)

Sec. 38.018. Procedures Regarding Response to Cardiac Arrest.

(a) Each school district and private school shall develop safety procedures for a district or school employee or student to follow in responding to a medical emergency involving cardiac arrest, including the appropriate response time in administering cardiopulmonary resuscitation, using an automated external defibrillator, as defined by Section 779.001, Health and Safety Code, or calling a local emergency medical services provider.

(b) A private school is required to develop safety procedures under this section only if the school receives an automated external defibrillator from the agency or receives funding from the agency to purchase or lease an automated external defibrillator.

(Enacted by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 6, effective June 15, 2007.)

Sec. 38.0181. Cardiovascular Screening Pilot Program.

(a) In this section, "pilot program" means the cardiovascular screening pilot program.

(b) The commissioner shall establish a pilot program under which sixth grade students at participating campuses are administered a cardiovascular screening, including an electrocardiogram and an echocardiogram.

(c) The commissioner shall select campuses to participate in the pilot program. In selecting campuses, the commissioner shall ensure that the cardiovascular screening is administered to an ethnically diverse range of students.

(d) The commissioner may accept grants and donations for use in administering the pilot program.

(e) The commissioner shall require a participating campus to provide the results of a student's cardiovascular screening to the student's parent or guardian.

(f) [Expired pursuant to Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 6, effective June 1, 2009.]

(g) The commissioner may adopt rules necessary to administer this section.

(Enacted by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 6, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(6), effective September 1, 2009 (renumbered from Sec. 38.019).)

Sec. 38.019. Immunization Awareness Program.

(a) A school district that maintains an Internet website shall post prominently on the website:

(1) a list, in English and Spanish, of:

(A) the immunizations required for admission to public school by rules of the Department of State Health Services adopted under Section 38.001;

(B) any immunizations or vaccines recommended for public school students by the Department of State Health Services; and

(C) health clinics in the district that offer the influenza vaccine, to the extent those clinics are known to the district; and

(2) a link to the Department of State Health Services Internet website where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements of Section 38.001.

(a-1) The link to the Department of State Health Services Internet website provided under Subsection (a)(2) must be presented in the same manner as the information provided under Subsection (a)(1).

(b) The list of recommended immunizations or vaccines under Subsection (a)(2) must include the influenza vaccine, unless the Department of State Health Services requires the influenza vaccine for admission to public school.

(Enacted by Acts 2007, 80th Leg., ch. 94 (H.B. 1059), § 3, effective May 15, 2007.)

Sec. 38.022. School Visitors.

(a) A school district may require a person who enters a district campus to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity.

(b) A school district may establish an electronic database for the purpose of storing information concerning visitors to district campuses. Information stored in the electronic database may be used only for the purpose of school district security and may not be sold or otherwise disseminated to a third party for any purpose.

(c) A school district may verify whether a visitor to a district campus is a sex offender registered with the computerized central database maintained by the Department of Public Safety as provided by Article 62.005, Code of Criminal Procedure, or any other database accessible by the district.

(d) The board of trustees of a school district shall adopt a policy regarding the action to be taken by

the administration of a school campus when a visitor is identified as a sex offender.
(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 12, effective June 15, 2007.)

Sec. 38.023. List of Resources Concerning Internet Safety.

The agency shall develop and make available to school districts a list of resources concerning Internet safety, including a list of organizations and Internet websites that may assist in educating teachers and students about:

(1) the potential dangers of allowing personal information to appear on an Internet website;

(2) the significance of copyright laws; and

(3) the consequences of cyber-plagiarism and theft of audiovisual works, including motion pictures, software, and sound recordings, through uploading and downloading files on the Internet.

(Enacted by Acts 2007, 80th Leg., ch. 751 (H.B. 3171), § 1, effective June 15, 2007.)

Sec. 38.024. Insurance Against Student Injuries.

(a) In compliance with this section, the board of trustees of a school district may obtain insurance against bodily injuries sustained by students while training for or engaging in interschool athletic competition or while engaging in school-sponsored activities on a school campus.

(b) The amount of insurance to be obtained must be in keeping with the financial condition of the school district and may not exceed the amount that, in the opinion of the board of trustees, is reasonably necessary to afford adequate medical treatment of injured students.

(c) The insurance authorized by this section must be obtained from a reliable insurance company authorized to do business in this state and must be on forms approved by the commissioner of insurance.

(d) The cost of the insurance is a legitimate part of the total cost of operating the school district.

(e) The failure of any board of trustees to carry the insurance authorized by this section may not be construed as placing any legal liability on the school district or its officers, agents, or employees for any injury that results.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 534 (H.B. 2301), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 7.004(a), effective September 1, 2009 (renumbered from Sec. 33.085); am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 7.004(b), effective September 1, 2009.)

Sec. 38.026. Grant Program for Best Practices in Nutrition Education.

(a) The Department of Agriculture shall develop a program under which the department awards grants to public school campuses for best practices in nutrition education.

(b) The Department of Agriculture may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this section.

(c) The Department of Agriculture may adopt rules as necessary to administer a grant program established under this section.

(Enacted by Acts 2009, 81st Leg., ch. 728 (S.B. 282), § 2, effective June 19, 2009.)

SUBCHAPTER B
SCHOOL-BASED HEALTH CENTERS

Sec. 38.051. Establishment of School-Based Health Centers.

(a) A school district in this state may, if the district identifies the need, design a model in accordance with this subchapter for the delivery of cooperative health care programs for students and their families and may compete for grants awarded under this subchapter. The model may provide for the delivery of conventional health services and disease prevention of emerging health threats that are specific to the district.

(b) On the recommendation of an advisory council established under Section 38.058, a school district may establish a school-based health center at one or more campuses in the district to meet the health care needs of students and their families.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.052. Contract for Services.

A district may contract with a person to provide services at a school-based health center.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.053. Parental Consent Required.

(a) A school-based health center may provide services to a student only if the district or the provider with whom the district contracts obtains the written

consent of the student's parent or guardian or another person having legal control of the student on a consent form developed by the district or provider. The student's parent or guardian or another person having legal control of the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

(b) The consent form must list every service the school-based health center delivers in a format that complies with all applicable state and federal laws and allows a person to consent to one or more categories of services.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.054. Categories of Services.

The permissible categories of services are:

(1) family and home support;
(2) health care, including immunizations;
(3) dental health care;
(4) health education; and
(5) preventive health strategies.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.055. Use of Grant Funds for Reproductive Services Prohibited.

Reproductive services, counseling, or referrals may not be provided through a school-based health center using grant funds awarded under this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.056. Provision of Certain Services by Licensed Health Care Provider Required.

Any service provided using grant funds awarded under this subchapter must be provided by an appropriate professional who is properly licensed, certified, or otherwise authorized under state law to provide the service.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.057. Identification of Health-Related Concerns.

(a) The staff of a school-based health center and the person whose consent is obtained under Section 38.053 shall jointly identify any health-related concerns of a student that may be interfering with the student's well-being or ability to succeed in school.

(b) If it is determined that a student is in need of a referral for mental health services, the staff of the center shall notify the person whose consent is required under Section 38.053 verbally and in writing of the basis for the referral. The referral may not be provided unless the person provides written consent for the type of service to be provided and provides specific written consent for each treatment occasion.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.058. Health Education and Health Care Advisory Council.

(a) The board of trustees of a school district may establish and appoint members to a local health education and health care advisory council to make recommendations to the district on the establishment of school-based health centers and to assist the district in ensuring that local community values are reflected in the operation of each center and in the provision of health education.

(b) A majority of the members of the council must be parents of students enrolled in the district. In addition to the appointees who are parents of students, the board of trustees shall also appoint at least one person from each of the following groups:

(1) teachers;
(2) school administrators;
(3) licensed health care professionals;
(4) the clergy;
(5) law enforcement;
(6) the business community;
(7) senior citizens; and
(8) students.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.059. Assistance of Public Health Agency.

(a) A school district may seek assistance in establishing and operating a school-based health center from any public health agency in the community. On request, a public health agency shall cooperate with a district and to the extent practicable, considering the resources of the agency, may provide assistance.

(b) A district and a public health agency may, by agreement, jointly establish, operate, and fund a school-based health center.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.060. Coordination with Existing Providers in Certain Areas.

(a) This section applies only to a school-based health center serving an area that:

(1) is located in a county with a population not greater than 50,000; or

(2) has been designated under state or federal law as:

(A) a health professional shortage area;

(B) a medically underserved area; or

(C) a medically underserved community by the Texas Department of Rural Affairs.

(b) If a school-based health center is located in an area described by Subsection (a), the school district and the advisory council established under Section 38.058 shall make a good faith effort to identify and coordinate with existing providers to preserve and protect existing health care systems and medical relationships in the area.

(c) The council shall keep a record of efforts made to coordinate with existing providers.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011); am. Acts 2003, 78th Leg., ch. 609 (H.B. 1877), § 7, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 9, § 9.006(f), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 112 (H.B. 1918), § 2, effective September 1, 2009.)

Sec. 38.061. Communication with Primary Care Physician.

(a) If a person receiving a medical service from a school-based health center has a primary care physician, the staff of the center shall provide notice of the service the person received to the primary care physician in order to allow the physician to maintain a complete medical history of the person.

(b) The staff of a school-based health center shall, before delivering a medical service to a person with a primary care physician under the state Medicaid program, a state children's health plan program, or a private health insurance or health benefit plan, notify the physician for the purpose of sharing medical information and obtaining authorization for delivering the medical service.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.062. Funding for Provision of Services.

A school district or the provider with whom the district contracts shall seek all available sources of funding to compensate the district or provider for services provided by a school-based health center, including money available under the state Medicaid program, a state children's health plan program, or private health insurance or health benefit plans or available from those persons using a school-based health center who have the ability to pay for the services.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011).)

Sec. 38.063. Grants.

(a) Subject to the availability of federal or state appropriated funds, the commissioner of state health services shall administer a program under which grants are awarded to assist school districts and local health departments, hospitals, health care systems, universities, or nonprofit organizations that contract with school districts with the costs of school-based health centers in accordance with this section.

(b) The commissioner of state health services, by rules adopted in accordance with this section, shall establish procedures for awarding grants. The rules must provide that:

(1) grants are awarded annually through a competitive process to:

(A) school districts; and

(B) local health departments, hospitals, health care systems, universities, or nonprofit organizations that have contracted with school districts to establish and operate school-based health centers;

(2) subject to the availability of federal or state appropriated funds, each grant is for a term of five years; and

(3) a preference is given to school-based health centers in school districts that are located in rural areas or that have low property wealth per student.

(c) All health care programs should be designed to meet the following goals:

(1) reducing student absenteeism;

(2) increasing a student's ability to meet the student's academic potential; and

(3) stabilizing the physical well-being of a student.

(d) A school district, local health department, hospital, health care system, university, or nonprofit organization may not receive more than $250,000 per state fiscal biennium through grants awarded under this section.

(e) To be eligible to receive a grant, a school district, local health department, hospital, health care system, university, or nonprofit organization must provide matching funds in accordance with rules adopted under Subsection (b). The matching funds may be obtained from any source available to the district, local health department, hospital, health care system, university, or nonprofit organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

(e-1) A grant under this section may not be given to a nonprofit organization that offers reproductive services, contraceptive services, counseling, or referrals, or any other services that require a license under Chapter 245, Health and Safety Code, or that is affiliated with a nonprofit organization that is licensed under Chapter 245, Health and Safety Code.

(e-2) A school district, local health department, hospital, health care system, university, or nonprofit organization receiving a grant under this section may use the grant funds to:

(1) establish a new school-based health center;

(2) expand an existing school-based health center; or

(3) operate a school-based health center.

(f) The commissioner of state health services shall adopt rules establishing standards for health care centers funded through grants that place primary emphasis on delivery of health services and secondary emphasis on population-based models that prevent emerging health threats.

(g) The commissioner of state health services shall require client surveys to be conducted in school-based health centers funded through grants awarded under this section.

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011); am. Acts 2009, 81st Leg., ch. 598 (H.B. 281), § 1, effective June 19, 2009.)

Sec. 38.064. Report to Legislature.

(a) Based on statistics obtained from every school-based health center in this state that receives funding through the Department of State Health Services, the Department of State Health Services shall issue a biennial report to the legislature about the relative efficacy of services delivered by the centers during the preceding two years and any increased academic success of students at campuses served by those centers, with special emphasis on any:

(1) increased attendance, including attendance information regarding students with chronic illnesses;

(2) decreased drop-out rates;

(3) improved student health;

(4) increased student immunization rates;

(5) increased student participation in preventive health measures, including routine physical examinations and checkups conducted in accordance with the Texas Health Steps program; and

(6) improved performance on student assessment instruments administered under Subchapter B, Chapter 39.

(b) The Department of State Health Services may modify any requirement imposed by Subsection (a) if necessary to comply with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(Enacted by Acts 1999, 76th Leg., ch. 1418 (H.B. 2202), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.005, effective September 1, 2001 (renumbered from Sec. 38.011); am. Acts 2009, 81st Leg., ch. 598 (H.B. 281), § 2, effective June 19, 2009.)

SUBCHAPTER C
PHYSICAL FITNESS ASSESSMENT

Sec. 38.101. Assessment Required.

(a) Except as provided by Subsection (b), a school district annually shall assess the physical fitness of students enrolled in grade three or higher in a course that satisfies the curriculum requirements for physical education under Section 28.002(a)(2)(C).

(b) A school district is not required to assess a student for whom, as a result of disability or other condition identified by commissioner rule, the assessment instrument adopted under Section 38.102 is inappropriate.

(Enacted by Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 3, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 17, effective September 28, 2011.)

Sec. 38.102. Adoption of Assessment Instrument.

(a) The commissioner by rule shall adopt an assessment instrument to be used by a school district in assessing student physical fitness under this subchapter.

(b) The assessment instrument must:

(1) be based on factors related to student health, including the following factors that have been identified as essential to overall health and function:

(A) aerobic capacity;

(B) body composition; and

(C) muscular strength, endurance, and flexibility; and

(2) include criterion-referenced standards specific to a student's age and gender and based on the physical fitness level required for good health.

(Enacted by Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 3, effective June 15, 2007.)

Sec. 38.103. Reporting of Physical Fitness Results.

(a) A school district shall provide the results of individual student performance on the physical fitness assessment required by this subchapter to the agency. The results may not contain the names of individual students or teachers or a student's social security number or date of birth.

(b) The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.

(Enacted by Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 3, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 372 (S.B. 226), §§ 1, 2, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 372 (S.B. 226), § 3 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 38.104. Analysis of Results.

(a) The agency shall analyze the results received by the agency under this subchapter and identify, for each school district, any correlation between the results and the following:

(1) student academic achievement levels;

(2) student attendance levels;

(3) student obesity;

(4) student disciplinary problems; and

(5) school meal programs.

(b) The agency may contract with a public or private entity for that entity to conduct all or part of the analysis required by Subsection (a).

(c) Not later than September 1 of each year, the agency shall report the findings of the analysis under this section of the results obtained during the preceding school year to the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, for use by the committee in:

(1) assessing the effectiveness of coordinated health programs provided by school districts in accordance with Section 38.014; and

(2) developing recommendations for modifications to coordinated health program requirements or related curriculum.

(Enacted by Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 3, effective June 15, 2007.)

Sec. 38.105. Donations.

The agency and each school district may accept donations made to facilitate implementation of this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 3, effective June 15, 2007.)

Sec. 38.106. Rules.

The commissioner shall adopt rules necessary to implement this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1377 (S.B. 530), § 3, effective June 15, 2007.)

SUBCHAPTER D
PREVENTION, TREATMENT, AND OVERSIGHT OF CONCUSSIONS AFFECTING STUDENT ATHLETES

Sec. 38.151. Definitions.

In this subchapter:

(1) "Advanced practice nurse" has the meaning assigned by Section 301.152, Occupations Code.

(2) "Athletic trainer" has the meaning assigned by Section 451.001, Occupations Code.

(3) "Coach" includes an assistant coach.

(4) "Concussion" means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may:

(A) include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns; and

(B) involve loss of consciousness.

(5) "Licensed health care professional" means an advanced practice nurse, athletic trainer, neuropsychologist, or physician assistant, as those terms are defined by this section.

(6) "Neuropsychologist" means a person who:

(A) holds a license to engage in the practice of psychology issued under Section 501.252, Occupations Code; and

(B) specializes in the practice of neuropsychology.

(7) "Open-enrollment charter school" includes a school granted a charter under Subchapter E, Chapter 12.

(8) "Physician" means a person who holds a license to practice medicine in this state.

(9) "Physician assistant" means a person who holds a license issued under Chapter 204, Occupations Code.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 3 provides: "Subchapter D, Chapter 38, Education Code, as added by this Act, applies beginning with the 2011-2012 school year."

Sec. 38.152. Applicability.

This subchapter applies to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by:

(1) a school district, including a home-rule school district, or a public school, including any school for which a charter has been granted under Chapter 12; or

(2) the University Interscholastic League.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.153. Oversight of Concussions by School Districts and Charter Schools; Return-to-Play Protocol Development by Concussion Oversight Team.

(a) The governing body of each school district and open-enrollment charter school with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team.

(b) Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.154. Concussion Oversight Team: Membership.

(a) Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the school district or open-enrollment charter school is located, district or charter school student enrollment, and the availability of and access to licensed health care professionals in the district or charter school area, must also include one or more of the following:

(1) an athletic trainer;

(2) an advanced practice nurse;

(3) a neuropsychologist; or

(4) a physician assistant.

(b) If a school district or open-enrollment charter school employs an athletic trainer, the athletic trainer must be a member of the district or charter school concussion oversight team.

(c) Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.155. Required Annual Form Acknowledging Concussion Information.

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the University Interscholastic League.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.156. Removal from Play in Practice or Competition Following Concussion.

A student shall be removed from an interscholastic athletics practice or competition immediately if

one of the following persons believes the student might have sustained a concussion during the practice or competition:

(1) a coach;

(2) a physician;

(3) a licensed health care professional; or

(4) the student's parent or guardian or another person with legal authority to make medical decisions for the student.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.157. Return to Play in Practice or Competition.

(a) A student removed from an interscholastic athletics practice or competition under Section 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

(1) the student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;

(2) the student has successfully completed each requirement of the return-to-play protocol established under Section 38.153 necessary for the student to return to play;

(3) the treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and

(4) the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student:

(A) have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play;

(B) have provided the treating physician's written statement under Subdivision (3) to the person responsible for compliance with the return-to-play protocol under Subsection (c) and the person who has supervisory responsibilities under Subsection (c); and

(C) have signed a consent form indicating that the person signing:

(i) has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;

(ii) understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

(iii) consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), of the treating physician's written statement under Subdivision (3) and, if any, the return-to-play recommendations of the treating physician; and

(iv) understands the immunity provisions under Section 38.159.

(b) A coach of an interscholastic athletics team may not authorize a student's return to play.

(c) The school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, the person who serves the function of superintendent or that person's designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities under this subsection may not be a coach of an interscholastic athletics team.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.158. Training Courses.

(a) The University Interscholastic League shall approve for coaches of interscholastic athletic activities training courses that provide for not less than two hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects. The league shall maintain an updated list of individuals and organizations authorized by the league to provide the training.

(b) The Department of State Health Services Advisory Board of Athletic Trainers shall approve for athletic trainers training courses in the subject matter of concussions and shall maintain an updated list of individuals and organizations authorized by the board to provide the training.

(c) The following persons must take a training course in accordance with Subsection (e) from an authorized training provider at least once every two years:

(1) a coach of an interscholastic athletic activity;

(2) a licensed health care professional who serves as a member of a concussion oversight team and is an employee, representative, or agent of a school district or open-enrollment charter school; and

(3) a licensed health care professional who serves on a volunteer basis as a member of a concussion oversight team for a school district or open-enrollment charter school.

(d) A physician who serves as a member of a concussion oversight team shall, to the greatest extent practicable, periodically take an appropriate continuing medical education course in the subject matter of concussions.

(e) For purposes of Subsection (c):

(1) a coach must take a course described by Subsection (a);

(2) an athletic trainer must take:

(A) a course described by Subsection (b); or

(B) a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for the profession; and

(3) a licensed health care professional, other than an athletic trainer, must take:

(A) a course described by Subsection (a) or (b); or

(B) a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for the profession.

(f) Each person described by Subsection (c) must submit proof of timely completion of an approved course in compliance with Subsection (e) to the school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, a person who serves the function of a superintendent or that person's designee.

(g) A licensed health care professional who is not in compliance with the training requirements under this section may not serve on a concussion oversight team in any capacity.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.159. Immunity.

This subchapter does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school or of district or charter school officers or employees;

(2) create any liability for a cause of action against a school district or open-enrollment charter school or against district or charter school officers or employees;

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code; or

(4) create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

Sec. 38.160. Rules.

The commissioner may adopt rules as necessary to administer this subchapter.

(Enacted by Acts 2011, 82nd Leg., ch. 781 (H.B. 2038), § 2, effective June 17, 2011.)

SUBTITLE H
PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

CHAPTER 39
PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

Subchapter A. Comprehensive Review of Public School Accountability System [Expired]

Subchapter B. Assessment of Academic Skills

SUBCHAPTER A
COMPREHENSIVE REVIEW OF PUBLIC SCHOOL ACCOUNTABILITY SYSTEM [EXPIRED]

Sec. 39.001. Select Committee on Public School Accountability [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

Sec. 39.002. Committee Meetings [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

Sec. 39.003. Compensation and Reimbursement [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

Sec. 39.004. Committee Staff [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.
(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

Sec. 39.005. Objectives of Study [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.
(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

Sec. 39.006. Report [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.
(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

Sec. 39.007. Expiration [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective January 13, 2009.
(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 7, effective September 1, 2007.)

SUBCHAPTER B
ASSESSMENT OF ACADEMIC SKILLS

Sec. 39.021. Essential Skills and Knowledge.

The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section 4.002.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 39.022. Assessment Program.

The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement that achieves the goals provided under Section 4.002. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 2, effective September 1, 1999.)

Sec. 39.023. Adoption and Administration of Instruments.

(a) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (*l*) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, annually in grades three through eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight;

(5) science, in grades five and eight; and

(6) any other subject and grade required by federal law.

(a) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (*l*) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, in grades three and five without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, in grades three, five, and eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight; and

(5) science, in grades five and eight.

(a) **[3 Versions: Effective September 1, 2017]** The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (*l*) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, annually in grades three through eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight;

(5) science, in grades five and eight; and

(6) any other subject and grade required by federal law.

(a-1) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:

(1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and

(2) an appropriate range of performances to serve as a valid indication of growth in student achievement.

(a-1) **[Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** The agency shall develop assessment instruments required under Subsections (a), (a-4), (a-5), and (a-6) in a manner that allows, to the extent practicable:

(1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and

(2) an appropriate range of performances to serve as a valid indication of growth in student achievement.

(a-1) **[3 Versions: Effective September 1, 2017]** The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:

(1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and

(2) an appropriate range of performances to serve as a valid indication of growth in student achievement.

(a-2) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

(1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Subsection (a) that aligns with the curriculum for the course in which the student is enrolled; or

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.

(a-2) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

(1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Subsection (a), (a-4), (a-5), or (a-6) that aligns with the curriculum for the course in which the student is enrolled; or

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.

(a-2) **[3 Versions: Effective September 1, 2017]** Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

(1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Subsection (a) that aligns with the curriculum for the course in which the student is enrolled; or

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.

(a-3) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 861]** The agency may not adopt or develop a criterion-referenced assessment instrument under this section based on common core state standards as defined by Section 28.002(b-1). This subsection does not prohibit the use of college advanced placement tests or international baccalaureate examinations as those terms are defined by Section 28.051.

(a-3) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 1267, effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** For each assessment instrument administered under Subsection (a) or (a-5), the agency shall determine, based on available information for that assessment instrument, the minimum satisfactory adjusted

scale score. The minimum satisfactory adjusted scale score is the sum of the scale score that indicates satisfactory performance on that assessment instrument, as determined by the commissioner under Section 39.0241(a), plus the minimum number of points that when added to the scale score produces a score that, within a three percent margin of error, is predictive that a student achieving that score would achieve satisfactory performance on an assessment instrument in the same subject administered to the student during the following school year.

(a-4) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** A student shall be assessed in grade four in a subject for which an assessment instrument is administered under Subsection (a) in grade three if, on the final assessment instrument in that subject administered under Subsection (a) to the student in grade three during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-3).

(a-5) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** A student shall be assessed in grade six in a subject for which an assessment instrument is administered under Subsection (a) in grade five if, on the final assessment instrument in that subject administered under Subsection (a) to the student in grade five during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-3).

(a-6) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** A student shall be assessed in grade seven in a subject for which an assessment instrument was administered under Subsection (a-5) to the student in grade six if, on the final assessment instrument in that subject administered to the student in grade six during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-3).

(a-7) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** A student assessed in mathematics under Subsection (a-4), (a-5), or (a-6) shall be assessed without the aid of technology.

(a-8) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** A school district or open-enrollment charter school may, for its own use in determining whether students are performing at a satisfactory level, administer to a student at the appropriate grade level, other than a student required to be assessed, an assessment instrument developed for purposes of Subsection (a-4), (a-5), or (a-6). At the request of a district or open-enrollment charter school, the agency shall provide, allow for the administration of, and score each assessment instrument administered under this subsection in the same manner and at the same cost as for assessment instruments required to be administered under the applicable subsection. The results of an assessment instrument administered under this subsection may not be included as an indicator of student achievement under Section 39.053 or any other provision.

(a-9) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** If there is a conflict between this section and a federal law or regulation as a result of forgoing under this section certain administration of assessment instruments to students who have recently performed successfully on assessment instruments assessing the same subject, the commissioner shall seek a waiver from the application of the conflicting federal law or regulation. In seeking a waiver, the commissioner shall submit all relevant data, including data relating to:

(1) the likelihood that a student who achieves a score on an assessment instrument equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-3), will, in subsequent years, perform satisfactorily on assessment instruments in the same subject;

(2) the costs associated with ongoing assessment of students who have proven likely to perform successfully on subsequent assessment instruments; and

(3) the benefit of redirecting resources from assessment of students who have proven likely to perform successfully on subsequent assessment instruments toward enabling lower performing students to perform successfully on assessment instruments after one school year.

(a-10) **[Effective on or before September 1, 2015; see Editor's note for effective date information, expires September 1, 2017]** This subsection and Subsections (a-3), (a-4), (a-5), (a-6), (a-7), (a-8), and (a-9) expire September 1, 2017.

(b) **[4 Versions: As amended by Acts 2013, 83rd Leg., ch. 211]** The agency shall develop or

adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, including assessment instruments approved by the commissioner that measure growth. The assessment instruments developed or adopted under this subsection, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students under this subsection.

(b) **[4 Versions: As amended by Acts 2013, 83rd Leg., ch. 590]** The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. The agency may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's admission, review, and dismissal committee.

(b) **[4 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to a student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a) or, to the extent applicable, Subsection (a-4), (a-5), or (a-6), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.

(b) **[4 Versions: Effective September 1, 2017]** The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.

(b-1) The agency, in conjunction with appropriate interested persons, shall redevelop assessment instruments adopted or developed under Subsection (b) for administration to significantly cognitively disabled students in a manner consistent with federal law. An assessment instrument under this subsection may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument. Assessment instruments adopted or developed under this subsection shall be administered not later than the 2014-2015 school year.

(c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States istory. The Algebra I end-of-course assessment instrument must be administered with the aid of technology. The English I and English II end-of-course assessment instruments must each assess essential knowledge and skills in both reading and writing in the same assessment instrument and must provide a single score. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

(c-1) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** The agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-1) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** To the greatest extent practicable, the agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-1) **[3 Versions: Effective September 1, 2017]** The agency shall develop any assessment

instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-2) The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c). A student's performance on an end-of-course assessment instrument adopted under this subsection is not subject to the performance requirements established under Subsection (c) or Section 39.025.

(c-3) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:

(1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and

(2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I and English II must be permitted to occur at an earlier date.

(c-3) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:

(1) assessment instruments administered under Subsections (a), (a-4), (a-5), and (a-6) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and

(2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I and English II must be permitted to occur at an earlier date.

(c-3) **[3 Versions: Effective September 1, 2017]** In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:

(1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and

(2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I and English II must be permitted to occur at an earlier date.

(c-4) To the extent practicable and subject to Section 39.024, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:

(1) developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and

(2) validated by national postsecondary education experts for college readiness content and performance standards.

(c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.

(c-6) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:

(1) is aligned with the essential knowledge and skills of the subject being assessed; and

(2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

(d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument.

(e) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys

to each assessment instrument administered under Subsection (a), (b), (c), (d), or (*l*), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. During the 2014- 2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.

(e) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (a-4), (a-5), (a-6), (b), (c), (d), or (*l*), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. During the 2014- 2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.

(e) **[3 Versions: Effective September 1, 2017]** Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (*l*), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. During the 2014- 2015 and 2015-2016 school years, the agency shall release the questions and answer keys to assessment instruments as described by this subsection each year.

(e-1) **[Expires December 31, 2013]** Under rules adopted by the commissioner, for the 2012-2013 school year, the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (c), (d), or (*l*), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. This subsection expires December 31, 2013.

(e-2) **[Expires December 31, 2014]** Under rules adopted by the commissioner, for the 2013-2014 school year, the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (b), (c), or (*l*), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument and any assessment instrument covering a subject or course for which the questions and answer keysfor the 2012-2013 assessment instrument covering that subject or course were released, after the last time the instrument is administered for the 2013-2014 school year. This subsection expires December 31, 2014.

(e-3) **[Expires December 31, 2014]** Under rules adopted by the commissioner, for the 2013-2014 school year, the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (*l*) during the 2013-2014 school year after the last time any assessment instrument is administered for the 2013-2014 school year. This subsection expires December 31, 2014.

(f) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.

(g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner.

(h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section not later than the

21st day after the date the assessment instrument is administered. The school district shall disclose to each district teacher the results of assessment instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

(i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under those rules and each assessment instrument required under Subsection (d) must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.

(j) [Repealed by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 18, effective September 1, 2007.]

(k) [Expired pursuant to Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 1, effective September 1, 2004.]

(l) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

(l) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) and, to the extent applicable, the assessment instruments adopted under Subsection (a-4) in Spanish to students in grades three, four, and five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a) and, as applicable, Subsection (a-4). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

(l) **[3 Versions: Effective September 1, 2017]** The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

(m) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(1) or (2). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.

(m) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(1) or (2). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) and, to the extent applicable, Subsections (a-4), (a-5), and (a-6) at the earliest practical date.

(m) **[3 Versions: Effective September 1, 2017]** The commissioner by rule shall develop procedures

under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(1) or (2). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.

(n) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

(n) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a) and, to the extent applicable, the assessment instruments adopted under Subsections (a-4), (a-5), and (a-6), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsections (a), (a-4), (a-5), and (a-6), as applicable.

(n) **[3 Versions: Effective September 1, 2017]** This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

(o) The commissioner of education and the commissioner of higher education shall study the feasibility of allowing students to satisfy end-of-course requirements under Subsection (c) by successfully completing a dual credit course through an institution of higher education. Not later than December 1, 2010, the commissioner of education and the commissioner of higher education shall make recommendations to the legislature based on the study conducted under this subsection.

(p) **[3 Versions: Effective until on or before September 1, 2015; see Editor's note for effective date information]** On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (c), or (*l*):

(1) the number of questions on the assessment instrument;

(2) the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);

(3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and

(4) the corresponding scale scores.

(p) **[3 Versions: Effective on or before September 1, 2015; see Editor's note for effective date information; effective until September 1, 2017]** On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (a-4), (a-5), (a-6), (c), or (*l*):

(1) the number of questions on the assessment instrument;

(2) the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);

(3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and

(4) the corresponding scale scores.

(p) **[3 Versions: Effective September 1, 2017]** On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (c), or (*l*):

(1) the number of questions on the assessment instrument;

(2) the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);

(3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and

(4) the corresponding scale scores.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), §§ 3, 8, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 8 (S.B. 676), § 1, effective April 11, 2001; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 9, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 25, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 5, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 433 (H.B. 447), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 11, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(20), effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), §§ 8, 18, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 50, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 307 (H.B. 2135), § 3, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 31(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 590 (S.B. 906), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 861 (H.B. 462), § 2, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1267 (H.B. 866), § 1, effective on or before September 1, 2015; am. Acts 2013, 83rd Leg., ch. 1267 (H.B. 866), § 2, effective September 1, 2017.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., ch. 1267 (H.B. 866), § 3(a) provides: "Except as otherwise provided by this Act, this Act takes effect on any date not later than September 1, 2015, on which the commissioner of education:

(1) obtains any necessary waiver from the application of federal law or regulation conflicting with Section 39.023, Education Code, as amended by this Act, as required by Section 39.023(a-9), Education Code, as added by this Act; or

(2) receives written notification from the United States Department of Education that a waiver is not required."

Applicability. — Acts 2013, 83rd Leg., ch. 590 (S.B. 906), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Acts 2013, 83rd Leg., ch. 1267 (H.B. 866), § 3(b) provides: "This Act applies beginning with the first school year that begins after the date on which this Act takes effect under Subsection (a) of this section."

Sec. 39.0231. Reporting of Results of Certain Assessments.

The agency shall ensure that each assessment instrument administered in accordance with Section 28.0211 is scored and that the results are returned to the appropriate school district not later than 10 days after receipt of the test materials by the agency or its test contractor.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.18, effective September 1, 1999.)

Sec. 39.0232. Use of End-of-Course Assessment Instrument As Placement Instrument; Certain Uses Prohibited.

(a) To the extent practicable, the agency shall ensure that any high school end-of-course assessment instrument developed by the agency is developed in such a manner that the assessment instrument may be used to determine the appropriate placement of a student in a course of the same subject matter at an institution of higher education.

(b) A student's performance on an end-of-course assessment instrument may not be used:

(1) in determining the student's class ranking for any purpose, including entitlement to automatic college admission under Section 51.803 or 51.804; or

(2) as a sole criterion in the determination of whether to admit the student to a general academic teaching institution in this state.

(c) Subsection (b)(2) does not prohibit a general academic teaching institution from implementing an admission policy that takes into consideration a student's performance on an end-of-course assessment instrument in addition to other criteria.

(d) In this section, "general academic teaching institution" has the meaning assigned by Section 61.003.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.05, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 32(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 32(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.0233. Special-Purpose Questions Included in End-of-Course Assessment Instruments.

(a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. The questions adopted under this subsection must be developed in a manner consistent with any college readiness standards adopted under Sections 39.233 and 51.3062.

(b) In addition to the questions adopted under Subsection (a), the agency shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the questions adopted under this subsection in order to be eligible to enroll in an advanced high school course.

(c) The State Board of Education shall establish a level of performance on the questions adopted under this section that indicates a student's college readiness. A student's performance on the questions adopted under this section must be evaluated separately from the student's performance on the remainder of the assessment instrument. A student's performance on a question adopted under this section may not be used to determine the student's performance on the assessment instrument for purposes of Section 39.023 or 39.025. The commissioner shall adopt rules concerning the reporting of a student's performance on the questions adopted under this section.

(d) The questions adopted under this section may not be administered in a separate section of the end-of-course assessment instrument.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 9, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 51, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.005, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 33(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 33(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.0234. Administration of Assessment Instruments by Computer.

(a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer. The commissioner may not require a school district or open-enrollment charter school to administer an assessment instrument by computer.

(b) [Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 9, effective June 1, 2009.]

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 9, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 52, effective June 19, 2009.)

Sec. 39.0235. Technology Literacy Assessment Pilot Program.

(a) In this section, "pilot program" means the technology literacy assessment pilot program.

(b) The commissioner by rule shall establish a pilot program in which a participating school district assesses student technology proficiency.

(c) A school district may apply to the commissioner to participate in the pilot program. The commissioner shall select for participation school districts from both rural and urban areas of the state.

(d) The agency shall adopt an assessment instrument designed to assess an individual student's mastery of the essential knowledge and skills in technology to be administered by a school district participating in the pilot program. The assessment instrument adopted under this subsection must be an existing product that is currently available.

(e) Each school year, the assessment instrument adopted under Subsection (d) shall be administered in a participating school district to each student in either fifth, sixth, seventh, eighth, or ninth grade, with the grade level and time to be determined by the district.

(f) The assessment instrument adopted under Subsection (d) must:

(1) be administered online;

(2) be aligned with the essential knowledge and skills requirements for technology applications; and

(3) incorporate performance-based measures, including a requirement that students perform certain technological tasks and respond to questions based on the completion of those tasks.

(g) An assessment instrument administered by a participating school district must be designed in a manner to provide the district with an automatic report of the technology literacy proficiency of a district student in a format that is compatible with the school district and state data information systems.

(h) A participating school district shall report student performance on the assessment instrument to the agency.

(Enacted by Acts 2007, 80th Leg., ch. 1237 (H.B. 2503), § 1, effective June 15, 2007.)

Sec. 39.0238. Adoption and Administration of Postsecondary Readiness Assessment Instruments.

(a) In addition to other assessment instruments adopted and developed under this subchapter, the agency shall adopt or develop appropriate postsecondary readiness assessment instruments for Algebra II and English III that a school district may administer at the district's option.

(b) To the extent practicable, the agency shall ensure that each postsecondary readiness assessment instrument:

(1) assesses essential knowledge and skills and growth;

(2) is developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and

(3) is validated by national postsecondary education experts for college readiness content and performance standards.

(c) In adopting a schedule for the administration of postsecondary readiness assessment instruments under this section, the State Board of Education shall require the annual administration of the postsecondary readiness assessment instruments to occur not earlier than the second full week in May.

(d) The agency shall adopt a policy requiring each school district that elects to administer postsecondary readiness assessment instruments under Subsection (a) to annually:

(1) administer the applicable postsecondary readiness assessment instrument to each student enrolled in a course for which a postsecondary readiness assessment instrument is adopted or developed under Subsection (a), including applied Algebra II; and

(2) report the results of the postsecondary readiness assessment instruments to the agency.

(e) The agency shall annually deliver a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the legislature with jurisdiction over public education. The report must include a summary of student performance on the preceding year's postsecondary readiness assessment instruments.

(f) The results of a postsecondary readiness assessment instrument administered under this section may not be used by:

(1) the agency for accountability purposes for a school campus or school district;

(2) a school district:

(A) for the purpose of teacher evaluations; or

(B) in determining a student's final course grade or determining a student's class rank for the purpose of high school graduation; or

(3) an institution of higher education:

(A) for admission purposes; or

(B) to determine eligibility for a TEXAS grant.

(g) A school district may not administer an additional benchmark assessment instrument solely for the purpose of preparing for a postsecondary readiness assessment instrument administered under this section. In this subsection, "benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a postsecondary readiness assessment instrument administered under this section.

(h) The agency shall acknowledge a school district that elects to administer the postsecondary readiness assessment instruments as provided by Subsection (a).

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 34(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 34(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.024. Measure of College Readiness.

(a) In this section, "college readiness" means the level of preparation a student must attain in English language arts and mathematics courses to enroll and succeed, without remediation, in an entry-level general education course for credit in that same content area for a baccalaureate degree or associate degree program at:

(1) a general academic teaching institution, as defined by Section 61.003, other than a research institution, as categorized under the Texas Higher Education Coordinating Board's accountability system; or

(2) a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

(b) to (h) [Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(2), effective September 1, 2013.]

(i) The agency shall gather data and conduct research to substantiate any correlation between a certain level of performance by students on end-of-course assessment instruments and success in:

(1) military service; or

(2) a workforce training, certification, or other credential program at a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.19, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 4, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.006, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), §§ 12, 14, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 53, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 40, 105(a)(5), effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(2), effective September 1, 2013.)

Sec. 39.0241. Performance Standards.

(a) The commissioner shall determine the level of performance considered to be satisfactory on the assessment instruments.

(a-1) The commissioner of education, in collaboration with the commissioner of higher education, shall determine the level of performance necessary to indicate college readiness, as defined by Section 39.024(a).

(a-2) [Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(3), effective September 1, 2013.]

(b) [Repealed by Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 14, effective June 20, 2003.]

(c) Using funds appropriated for purposes of this subsection, the agency may develop study guides for the assessment instruments administered under Sections 39.023(a) and (c). To assist parents in providing assistance during the period that school is recessed for summer, each school district shall make the study guides available to parents of students who do not perform satisfactorily as determined by the commissioner under Subsection (a) on one or more parts of an assessment instrument administered under this subchapter.

(d) Using funds appropriated for purposes of this subsection, the agency shall develop and make available teacher training materials and other teacher training resources to assist teachers in enabling students of limited English proficiency to meet state performance expectations. The teacher training resources shall be designed to support intensive, individualized, and accelerated instructional programs developed by school districts for students of limited English proficiency.

(e) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(5), effective September 1, 2009.]

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1997, 75th Leg., ch. 767, effective September 1, 1997; Acts 1999, 76th Leg., ch. 396, effective September 1, 1999; Acts 1999, 76th Leg., ch. 397, effective September 1, 1999; Acts 2001, 77th Leg., ch. 1420, effective September 1, 2001; Acts 2003, 78th Leg., ch. 1212, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 53, effective June 19, 2009 (renumbered from Sec. 39.024); am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 40, 105(a)(5), effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(3), effective September 1, 2013.)

Sec. 39.0242. Performance Standards: Research Studies and Implementation of Standards [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(4), effective September 1, 2013.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 53, effective June 19, 2009.)

Sec. 39.025. Secondary-Level Performance Required.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 211, § 35(a)]** The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to

achieve a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on each end-of-course assessment instrument listed under Section 39.023(c) that is administered to the student as provided by this subsection. For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 211, § 36(a), effective September 1, 2014]** The commissioner shall adopt rules requiring a student in the foundation high school program under Section 28.025 to be administered each end-of-course assessment instrument listed in Section 39.023(c) . A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on each end-of-course assessment instrument listed under Section 39.023(c). For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-1) A student enrolled in a college preparatory course under Section 28.014 who satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c) administered at the end of the college preparatory course satisfies the requirements concerning an end-of-course assessment in an equivalent course as prescribed by Subsection (a). The commissioner shall determine a method by which a student's satisfactory performance on an advanced placement test, an international baccalaureate examination, an SAT Subject Test, the SAT, the ACT, or any nationally recognized norm-referenced assessment instrument used by institutions of higher education to award course credit based on satisfactory performance on the assessment instrument shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). The commissioner shall determine a method by which a student's satisfactory performance on the PSAT or the ACT-Plan shall be used to satisfy the requirements concerning an end-of-course assessment instrument in an equivalent course as prescribed by Subsection (a). A student who fails to perform satisfactorily on a test or other assessment instrument authorized under this subsection, other than the PSAT or the ACT-Plan, may retake that test or other assessment instrument for purposes of this subsection or may take the appropriate end-of-course assessment instrument. A student who fails to perform satisfactorily on the PSAT or the ACT-Plan must take the appropriate end-of-course assessment instrument. The commissioner shall adopt rules as necessary for the administration of this subsection.

(a-2), (a-3) [Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(5), effective September 1, 2013.]

(a-4) The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.

(b) Each time an end-of-course assessment instrument adopted under Section 39.023(c) is administered, a student who failed to achieve a score requirement under Subsection (a) may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.

(b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.

(b-2) If a school district determines that a student, on completion of grade 11, is unlikely to achieve the score requirement under Subsection (a) for one or more end-of-course assessment instruments administered to the student as provided by Subsection (a) for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. A student who enrolls in a college preparatory course de-

scribed by this subsection shall be administered an end-of-course assessment instrument for the course, with the end-of-course assessment instrument scored on a scale as determined by the commissioner. A student may use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the score requirement prescribed by Subsection (a).

(c) A student who has been denied a high school diploma under this section and who subsequently performs at the level necessary to comply with the requirements of this section shall be issued a high school diploma.

(c-1) A school district may not administer an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. A school district may administer to a student who failed to perform satisfactorily on an assessment instrument described by this subsection an alternate assessment instrument designated by the commissioner. The commissioner shall determine the level of performance considered to be satisfactory on an alternate assessment instrument. The district may not administer to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. The commissioner shall make available to districts information necessary to administer the alternate assessment instrument authorized by this subsection. The commissioner's determination regarding designation of an appropriate alternate assessment instrument under this subsection and the performance required on the assessment instrument is final and may not be appealed.

(d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

(1) for the first time in a public school in this state; or

(2) after an absence of at least four years from any public school in this state.

(e) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a).

(e-1) Nothing in this section has the effect of prohibiting the administration of an end-of-course assessment instrument listed in Section 39.023(c) to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted. The commissioner shall adopt rules necessary to ensure that the student's performance on the assessment instrument is considered in the same manner for purposes of this section as the performance of a student enrolled at the high school level.

(f) **[Expires September 1, 2015]** The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments. The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007;

(2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on each required assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and

(3) the agency may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) to the extent necessary to develop additional assessment instruments.

(g) **[Expires September 1, 2015]** Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the eighth grade. Subsection (f) and this subsection expire September 1, 2015.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 5, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 164 (H.B. 25), § 6, effective May 27,

2005; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 10, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 54, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 307 (H.B. 2135), § 4, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 35(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 36(a), effective September 1, 2014; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(5), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 35(b) and 36(b) provide:s "This section applies beginning with the 2013—2014 school year."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 79(a) provides: "Except as provided by Subsection (b) of this section, Section 39.025, Education Code, as amended by Sections 35 and 36 of this Act, as related to reducing end-of-course testing requirements, applies only to students who have entered or will enter the ninth grade during the 2011-2012 school year or a later school year."

Sec. 39.026. Local Option.

In addition to the assessment instruments adopted by the agency and administered by the State Board of Education, a school district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A norm-referenced assessment instrument adopted under this section must be economical, nationally recognized, and state-approved.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 39.0261. College Preparation Assessments.

(a) In addition to the assessment instruments otherwise authorized or required by this subchapter:

(1) each school year and at state cost, a school district shall administer to students in the spring of the eighth grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school;

(2) each school year and at state cost, a school district shall administer to students in the 10th grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of measuring a student's progress toward readiness for college and the workplace; and

(3) high school students in the spring of the 11th grade or during the 12th grade may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes.

(b) The agency shall:

(1) select and approve vendors of the specific assessment instruments administered under this section; and

(2) pay all fees associated with the administration of the assessment instrument from funds allotted under the Foundation School Program, and the commissioner shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.253.

(c) The agency shall ensure that vendors are not paid under Subsection (b) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. The agency may comply with this subsection by any reasonable means, including by creating a refund system under which a vendor returns any payment made for a student who registered for the administration of an assessment instrument but did not appear for the administration.

(d) A vendor that administers an assessment instrument for a district under this section shall report the results of the assessment instrument to the agency. The agency shall:

(1) include a student's results on the assessment instrument in the electronic student records system established under Section 7.010; and

(2) ensure that a student and the student's parent receive a report of the student's results on the assessment instrument.

(e) Subsection (a)(3) does not prohibit a high school student in the spring of the 11th grade or during the 12th grade from selecting and taking, at the student's own expense, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes more than once.

(f) The provisions of this section apply only if the legislature appropriates funds for purposes of this section.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 11, effective September 1, 2007.)

Sec. 39.0262. Administration of District-Required Assessment Instruments in Certain Subject Areas.

(a) In a subject area for which assessment instruments are administered under Section 39.023, a school district may not administer locally required assessment instruments designed to prepare students for state-administered assessment instruments to any student on more than 10 percent of the

instructional days in any school year. A campus-level planning and decision-making committee established under Section 11.251 may limit the administration of locally required assessment instruments under this subsection to 10 percent or a lower percentage of the instructional days in any school year.

(b) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, an advanced placement test, an international baccalaureate examination, or an assessment instrument administered under Section 39.023.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 11, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 55, effective June 19, 2009.)

Sec. 39.0263. Administration of District-Required Benchmark Assessment Instruments to Prepare Students for State-Administered Assessment Instruments.

(a) In this section, "benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

(b) Except as provided by Subsection (c), a school district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

(c) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

(d) A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with commissioner rule, may request administration to the student of additional benchmark assessment instruments.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 37(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 37(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.027. Exemption.

(a) A student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of an assessment instrument under:

(1) Section 39.023(a), (b), (c), or (*l*) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e);

(2) Section 39.023(a), (b), (c), or (*l*) for a period of up to two years in addition to the exemption period authorized by Subdivision (1) if the student has received an exemption under Subdivision (1) and:

(A) is a recent unschooled immigrant; or

(B) is in a grade for which no assessment instrument in the primary language of the student is available; or

(3) Section 39.023(a), (b), (c), or (*l*) for a period of up to four years, in addition to the exemption period authorized under Subdivision (1), if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

(a-1) For purposes of this section, "unschooled asylee or refugee" means a student who:

(1) initially enrolled in a school in the United States as:

(A) an asylee as defined by 45 C.F.R. Section 400.41; or

(B) a refugee as defined by 8 U.S.C. Section 1101;

(2) has a visa issued by the United States Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and

(3) as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002, as determined by the language proficiency assessment committee established under Section 29.063.

(a-2) Unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Subsection (a)(1), (2), or (3).

(b) The State Board of Education shall adopt rules under which a dyslexic student who is not exempt under Subsection (a) may use procedures including oral examinations if appropriate or may be

allowed additional time or the materials or technology necessary for the student to demonstrate the student's mastery of the competencies the assessment instruments are designed to measure.

(c) The commissioner shall develop and adopt a process for reviewing the exemption process of a school district or shared services arrangement that gives an exemption under Subsection (a)(1) as follows:

(1) to more than five percent of the students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of at least 1,600;

(2) to more than 10 percent of the students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of at least 190 and not more than 1,599; or

(3) to the greater of more than 10 percent of the students in the special education program or to at least five students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of not more than 189.

(d) [Expired pursuant to Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 4, effective September 1, 2000.]

(e) The commissioner shall develop an assessment system that shall be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who is exempt from the administration of an assessment instrument under Subsection (a)(1) or (2) who achieves reading proficiency in English as determined by the assessment system developed under this subsection shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(1) or (2) applies shall be included in the indicator systems under Section 39.301, as applicable, the performance report under Section 39.306, and the comprehensive biennial report under Section 39.332. This information shall be provided in a manner that is disaggregated by the bilingual education or special language program, if any, in which the student is enrolled.

(f) In this section, "average daily attendance" is computed in the manner provided by Section 42.005.

(g) For purposes of this section, "recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment instrument under Section 39.023(a) or (*l*) and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002 as determined by the language proficiency assessment committee established under Section 29.063. For purposes of this subsection and to the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required under Section 25.002(a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 6, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 8 (S.B. 676), § 2, effective April 11, 2001; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), § 3, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.007, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 4, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 56, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 38(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 413 (S.B. 377), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 7, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 38(b) provides: "This section applies beginning with the 2013-2014 school year."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 81 provides: "Section 39.027(a-2), Education Code, as added by this Act, applies to a student regardless of the date on which the student initially enrolled in a school in the United States."

Acts 2013, 83rd Leg., ch. 413 (S.B. 377), § 2 provides: "Subsection (a-2), Section 39.027, Education Code, as added by this Act, applies to a student regardless of the date on which the student initially enrolled in a school in the United States."

Sec. 39.028. Comparison of State Results to National Results.

The state assessment program shall obtain nationally comparative results for the subject areas and grade levels for which criterion-referenced assessment instruments are adopted under Section 39.023.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 39.029. Migratory Children.

The State Board of Education by rule may provide alternate dates for the administration of the assessment instruments to a student who is a migratory child as defined by 20 U.S.C. Section 6399. The alternate dates may be chosen following a consideration of migrant work patterns, and the dates selected may afford maximum opportunity for the

students to be present when the assessment instruments are administered.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 39.030. Confidentiality; Performance Reports.

(a) In adopting academic skills assessment instruments under this subchapter, the State Board of Education or a school district shall ensure the security of the instruments and tests in their preparation, administration, and grading. Meetings or portions of meetings held by the State Board of Education or a school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 551, Government Code, and the assessment instruments or assessment instrument items are confidential.

(b) The results of individual student performance on academic skills assessment instruments administered under this subchapter are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the board of trustees of each school district. The information may not contain the names of individual students or teachers.

(c) [Repealed by Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 11, effective June 13, 2001.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 767 (S.B. 1735), § 11, effective June 13, 2001.)

Sec. 39.0301. Security in Administration of Assessment Instruments.

(a) The commissioner:

(1) shall establish procedures for the administration of assessment instruments adopted or developed under Section 39.023, including procedures designed to ensure the security of the assessment instruments; and

(2) may establish record retention requirements for school district records related to the security of assessment instruments.

(a-1) In establishing procedures under Subsection (a)(1) for the administration of assessment instruments, the commissioner shall ensure that the procedures are designed to minimize disruptions to school operations and the classroom environment. In implementing the procedures established under Subsection (a)(1) for the administration of assessment instruments, a school district shall minimize disruptions to school operations and the classroom environment.

(b) The commissioner may develop and implement statistical methods and standards for identifying potential violations of procedures established under Subsection (a) to ensure the security of assessment instruments adopted or developed under Section 39.023. In developing the statistical methods and standards, the commissioner may include indicators of:

(1) potential violations that are monitored annually; and

(2) patterns of inappropriate assessment practices that occur over time.

(c) The commissioner may establish one or more advisory committees to advise the commissioner and agency regarding the monitoring of assessment practices and the use of statistical methods and standards for identifying potential violations of assessment instrument security, including standards to be established by the commissioner for selecting school districts for investigation for a potential assessment security violation under Subsection (e). The commissioner may not appoint an agency employee to an advisory committee established under this subsection.

(d) Any document created for the deliberation of an advisory committee established under Subsection (c) or any recommendation of such a committee is confidential and not subject to disclosure under Chapter 552, Government Code. Except as provided by Subsection (e), the statistical methods and standards adopted under this section and the results of applying those methods and standards are confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The agency may conduct an investigation of a school district for a potential violation of assessment instrument security in accordance with the standards described by Subsection (c). Each school year, after completing all investigations of school districts selected for investigation, the agency shall disclose the identity of each district selected for investigation and the statistical methods and standards used to select the district.

(f) At any time, the commissioner may authorize the audit of a random sample of school districts to determine the compliance of the districts with procedures established under Subsection (a). The identity of each school district selected for audit under this subsection is confidential and not subject to disclosure under Chapter 552, Government Code,

except that the agency shall disclose the identity of each district after completion of the audit.

(g) The state auditor may conduct a risk-based audit of a school district at any time to ensure the security of assessment instruments administered under Section 39.023 in the district.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 12, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 39, effective June 10, 2013.)

Sec. 39.0302. Issuance of Subpoenas.

(a) During an agency investigation or audit of a school district under Section 39.0301(e) or (f), an accreditation investigation under Section 39.057(a)(8) or (13), or an investigation by the State Board for Educator Certification of an educator for an alleged violation of an assessment instrument security procedure established under Section 39.0301(a), the commissioner may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is located in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the commissioner, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state. On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(d) All information and materials subpoenaed or compiled in connection with an investigation or audit described by Subsection (a):

(1) are confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) are not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to any person other than:

(A) the commissioner or the State Board for Educator Certification, as applicable;

(B) agency employees or agents involved in the investigation, as applicable; and

(C) the office of the attorney general, the state auditor's office, and law enforcement agencies.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 12, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 509 (S.B. 123), § 1, effective June 14, 2013.)

Sec. 39.0303. Secure Assessment Instruments; Criminal Penalty.

(a) A person commits an offense if:

(1) the person intentionally discloses the contents of any portion of a secure assessment instrument developed or administered under this subchapter, including the answer to any item in the assessment instrument; and

(2) the disclosure affects or is likely to affect the individual performance of one or more students on the assessment instrument.

(b) An offense under this section is a Class C misdemeanor.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 12, effective September 1, 2007.)

Sec. 39.0304. Training in Assessment Instrument Administration.

(a) To ensure that each administration of assessment instruments under Section 39.023 is valid, reliable, and in compliance with the requirements of this subchapter, the commissioner may require training for school district employees involved in the administration of the assessment instruments.

(b) The training under Subsection (a) may include a qualifying component to ensure that school district employees involved in the administration of assessment instruments under Section 39.023 possess the necessary skills and knowledge required to administer the assessment instruments.

(c) The commissioner may adopt rules necessary to implement this section.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 12, effective September 1, 2007.)

Sec. 39.031. Cost.

The cost of preparing, administering, or grading the assessment instruments and releasing the question and answer keys under Section 39.023(e) shall be paid from amounts appropriated to the agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 5, effective September 1, 1997; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 41, effective September 1, 2009.)

Sec. 39.032. Assessment Instrument Standards; Civil Penalty.

(a), (b) [Repealed by Acts 2009, 81st Leg., ch. 1210 (S.B. 759), § 2, effective June 19, 2009.]

(c) State and national norms of averages shall be computed using data that are not more than eight years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered.

(c-1) The standardization norms computed under Subsection (c) shall be:

(1) based on a national probability sample that meets accepted standards for educational and psychological testing; and

(2) updated at least every eight years using proven psychometric procedures approved by the State Board of Education.

(c-2) The eight-year limitation on data to compute norms under this section does not apply if only data older than eight years is available for an assessment instrument. The commissioner by rule may limit the exception created by this subsection based on the type of assessment instrument.

(d) [Repealed by Acts 2009, 81st Leg., ch. 1210 (S.B. 759), § 2, effective June 19, 2009.]

(e) The State Board of Education shall adopt rules for the implementation of this section and for the maintenance of the security of the contents of all assessment instruments.

(f) In this section, "assessment instrument" means a group-administered achievement test.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1210 (S.B. 759), §§ 1, 2, effective June 19, 2009.)

Sec. 39.033. Voluntary Assessment of Private School Students.

(a) Under an agreement with the agency, a private school may administer an assessment instrument adopted under this subchapter to students at the school.

(b) An agreement under this section must require the private school to:

(1) as determined appropriate by the commissioner, provide to the commissioner the information described by Sections 39.053(c) and 39.301(c); and

(2) maintain confidentiality in compliance with Section 39.030.

(c) A private school must reimburse the agency for the cost of administering an assessment instrument under this section. The State Board of Education shall determine the cost under this section. The per-student cost may not exceed the cost of administering the same assessment to a student enrolled in a public school district.

(d) In this section, "private school" means a school that:

(1) offers a general education to elementary or secondary students; and

(2) is not operated by a governmental entity.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 57, effective June 19, 2009.)

Sec. 39.034. Measure of Annual Improvement in Student Achievement.

(a) The commissioner shall determine a method by which the agency may measure annual improvement in student achievement from one school year to the next on an assessment instrument required under this subchapter.

(b) For students of limited English proficiency, as defined by Section 29.052, the agency shall use a student's performance data on reading proficiency assessment instruments in English and one other language to calculate the student's progress toward dual language proficiency.

(c) The agency shall use a student's previous years' performance data on an assessment instrument required under this subchapter to determine the student's expected annual improvement. The agency shall report that expected level of annual improvement and the actual level of annual improvement achieved to the district. The report must state whether the student fell below, met, or exceeded the agency's expectation for improvement.

(d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable:

(1) the grade five assessment instruments;

(2) the grade eight assessment instruments; and

(3) the end-of-course assessment instruments required under this subchapter for graduation.

(d-1) The agency shall report the necessary annual improvement required under Subsection (d) to the district. Each year, the report must state whether the student fell below, met, or exceeded the necessary target for improvement.

(e) to (g) [Repealed by Acts 2009, 81st Leg., ch.. 895 (H.B. 3), § 66(1), effective June 19, 2009.]

(h) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.09, effective September 1, 2008.]

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.09, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 13, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), §§ 58, 66(1), effective June 19, 2009.)

Sec. 39.035. Limitation on Field Testing of Assessment Instruments.

(a) Subject to Subsection (b), the agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (*l*) that is separate from the administration of the assessment instrument not more frequently than every other school year.

(b) Subsection (a) does not limit field testing necessary to develop new assessment instruments required under state or federal law.

(c) Before the beginning of each school year, the agency shall notify each school district regarding the required participation of the district in field testing activities during that school year.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 14, effective September 1, 2007.)

Sec. 39.0351. Field Testing Study [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 14, effective January 1, 2009.

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 14, effective September 1, 2007.)

Sec. 39.036. Vertical Scale for Certain Assessment Instruments.

(a) The agency shall develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows the agency to compare the performance of a student on the assessment instruments from one grade level to the next.

(b) The commissioner shall adopt rules necessary to implement this section.

(c) [Expired pursuant to Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 14, effective September 1, 2009.]

(Enacted by Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 14, effective September 1, 2007.)

Sec. 39.037. International Assessment Instrument Program.

(a) In this section, "program" means the international assessment instrument program.

(b) The commissioner shall establish a program under which a participating school district administers international assessment instruments to students in the district.

(c) A school district may apply to the commissioner to participate in the program. The commissioner shall select for participation school districts from both rural and urban areas of the state. If necessary, the commissioner may require a school district to participate in the program.

(d) A participating school district shall administer international assessment instruments as required by the commissioner.

(e) In administering the program, the commissioner shall:

(1) compare the performance on the international assessment instruments of students in this state with students of the same grade level in other countries;

(2) compare the international assessment instruments with state assessment instruments and state educational goals; and

(3) provide professional development for educators in the interpretation and use of results of the international assessment instruments.

(f) Each biennium the commissioner may use funds appropriated for the Foundation School Program to provide funding for the program in an amount not to exceed $2 million.

(g) Not later than January 1 of each odd-numbered year, the commissioner shall prepare and deliver a report describing the results of student performance on the international assessment instruments to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, and each school district.

(h) The commissioner may adopt rules necessary to administer this section.

(Enacted by Acts 2007, 80th Leg., ch. 754 (H.B. 3259), § 1, effective June 15, 2007.)

Sec. 39.038. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 211] Restriction on Appointments to Advisory Committees.

The commissioner may not appoint a person to a committee or panel that advises the commissioner or agency regarding state accountability systems under this title or the content or administration of an assessment instrument if the person is retained or employed by an assessment instrument vendor.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 40, effective June 10, 2013.)

Sec. 39.038. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 1279, expires September 1, 2015] Sunset Review of Contracting Procedures for Assessment Instruments.

The Sunset Advisory Commission shall evaluate the contracting procedures used by the agency to enter into a contract with a provider to develop or administer assessment instruments required by Section 39.023 and present to the 84th Legislature a report on its evaluation and recommendations in relation to the contracting procedures. This section expires September 1, 2015.

(Enacted by Acts 2013, 83rd Leg., ch. 1279 (H.B. 1675), § 1.02, effective June 14, 2013.)

Sec. 39.039. Prohibition on Political Contribution or Activity by Certain Contractors.

(a) A person who is an agent of an entity that has been contracted to develop or implement assessment

instruments required under Section 39.023 commits an offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on the State Board of Education.

(b) A person who is an agent of an entity that has been contracted to develop or implement assessment instruments required under Section 39.023 commits an offense if the person serves as a member of a formal or informal advisory committee established by the commissioner, agency staff, or the State Board of Education to advise the commissioner, agency staff, or the State Board of Education regarding policies or implementation of the requirements of this subchapter.

(c) An offense under this section is a Class B misdemeanor.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 41(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 41(b) provides: "This section applies September 1, 2013."

SUBCHAPTER C
ACCREDITATION

Sec. 39.051. Accreditation Status.

Accreditation of a school district is determined in accordance with this subchapter. The commissioner by rule shall determine in accordance with this subchapter the criteria for the following accreditation statuses:

(1) accredited;

(2) accredited-warned; and

(3) accredited-probation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 767 (H.B. 1800), § 6, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.20, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 397 (S.B. 103), § 7, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1422 (H.B. 2401), § 3, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 8 (S.B. 676), § 3, effective April 11, 2001; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), §§ 4, 5, effective June 13, 2001; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 10, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, §§ 4.007, 4.008, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 26, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 433 (H.B. 447), § 2, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 805 (S.B. 186), § 1, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 3, §§ 3.10, 3.11, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 15, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 5, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.071(a)).)

Sec. 39.052. Determination of Accreditation Status or Performance Rating.

(a) Each year, the commissioner shall determine the accreditation status of each school district.

(b) In determining the accreditation status of a school district, the commissioner:

(1) shall evaluate and consider:

(A) performance on student achievement indicators described by Section 39.053(c); and

(B) performance under the financial accountability rating system developed under Subchapter D; and

(2) may evaluate and consider:

(A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:

(i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(ii) the high school graduation requirements under Section 28.025; or

(iii) an item listed under Sections 7.056(e)(3)(C)—(I) that applies to the district;

(B) the effectiveness of the district's programs for special populations; and

(C) the effectiveness of the district's career and technology program.

(c) Based on a school district's performance under Subsection (b), the commissioner shall:

(1) assign each district an accreditation status; or

(2) revoke the accreditation of the district and order closure of the district.

(d) A school district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this subchapter.

(e) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation or a campus that performs below a standard required under this subchapter that the performance of the district or campus is below a standard required under this subchapter. The commissioner shall require the dis-

trict to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.

(f) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

(g) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.21, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1514 (S.B. 576), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.009, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1269 (S.B. 900), § 2, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 3, § 3.13, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.071(b)).)

Sec. 39.053. Performance Indicators: Student Achievement.

(a) The commissioner shall adopt a set of indicators of the quality of learning and student achievement. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.

(b) Performance on the student achievement indicators adopted under this section shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status.

(c) Indicators of student achievement adopted under this section must include:

(1) the results of assessment instruments required under Sections 39.023(a), (c), and (*l*), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:

(A) for the performance standard determined by the commissioner under Section 39.0241(a):

(i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area; and

(B) for the college readiness performance standard as determined under Section 39.0241:

(i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area;

(2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

(3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

(4) the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the foundation high school program;

(5) the percentage of students who successfully completed the curriculum requirements for an endorsement under Section 28.025(c-1); and

(6) at least three additional indicators of student achievement to evaluate district and campus performance, which must include either:

(A) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument in reading, writing, or mathematics designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or

(B) the number of students who earn:

(i) at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(ii) at least 30 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(iii) an associate's degree; or

(iv) an industry certification.

(c-1) An indicator adopted under Subsection (c) that would measure improvements in student achievement cannot negatively affect the commis-

sioner's review of a school district or campus if that district or campus is already achieving at the highest level for that indicator.

(c-2) The commissioner by rule shall determine a method by which a student's performance may be included in determining the performance rating of a school district or campus under Section 39.054 if, before the student graduates, the student:

(1) satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or

(2) performs satisfactorily on an assessment instrument under Section 39.023(c), notwithstanding Subsection (d).

(d) For purposes of Subsection (c), the commissioner by rule shall determine the period within which a student must retake an assessment instrument for that assessment instrument to be considered in determining the performance rating of the district under Section 39.054.

(d-1) In aggregating results of assessment instruments across grade levels by subject in accordance with Subsection (c)(1), the performance of a student enrolled below the high school level on an assessment instrument required under Section 39.023(c) is included with results relating to other students enrolled at the same grade level.

(e) Performance on the student achievement indicators under Subsections (c)(1) and (2) shall be compared to state standards and required improvement. The state standard shall be established by the commissioner. Required improvement is the progress necessary for the campus or district to meet state standards and, for the student achievement indicator under Subsection (c)(1), for its students to meet each of the performance standards as determined under Section 39.0241.

(f) Annually, the commissioner shall define the state standard for the current school year for each student achievement indicator described by Subsection (c) and shall project the state standards for each indicator for the following two school years. The commissioner shall periodically raise the state standards for the student achievement indicator described by Subsection (c)(1)(B)(i) for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year:

(1) student performance in this state, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness; and

(2) student performance, with no significant achievement gaps by race, ethnicity, and socioeconomic status.

(g) In defining the required state standard for the indicator described by Subsection (c)(2), the commissioner may not consider as a dropout a student whose failure to attend school results from:

(1) the student's expulsion under Section 37.007; and

(2) as applicable:

(A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or

(B) conviction of and sentencing for an offense under the Penal Code.

(g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:

(1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;

(2) students who were previously reported to the state as dropouts, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out;

(3) students in attendance who are not in membership for purposes of average daily attendance;

(4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);

(5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and

(6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.

(h) Each school district shall cooperate with the agency in determining whether a student is a dropout for purposes of accreditation and evaluating performance by school districts and campuses under this chapter.

(i) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily as determined by the commissioner under Section 39.0241(a) or under the college readiness standard as determined under Section 39.0241 in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (*l*).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 510 (S.B. 1724), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1417 (H.B. 2172), § 2, effective June 19, 1999; am. Acts 2001, 77th

Leg., ch. 725 (S.B. 702), § 6, effective June 13, 2001; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 11, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.010, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), § 24, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.051); am. Acts 2011, 82nd Leg., ch. 307 (H.B. 2135), § 5, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 42(a), 43(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 42(b) and 43(b) provide: "This section applies beginning with the 2014-2015 school year."

Sec. 39.054. Methods and Standards for Evaluating Performance.

(a) The commissioner shall adopt rules to evaluate school district and campus performance and assign each district a performance rating of A, B, C, D, or F. In adopting rules under this subsection, the commissioner shall determine the criteria for each designated letter performance rating. A district performance rating of A, B, or C reflects acceptable performance and a district performance rating of D or F reflects unacceptable performance. The commissioner shall also assign each campus a performance rating of exemplary, recognized, acceptable, or unacceptable. A campus performance rating of exemplary, recognized, or acceptable reflects acceptable performance, and a campus performance rating of unacceptable reflects unacceptable performance. A district may not receive a performance rating of A if the district includes any campus with a performance rating of unacceptable. Not later than August 8 of each year, the performance rating of each district and campus shall be made publicly available as provided by rules adopted under this subsection. If a district or campus received a performance rating that reflected unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.

(b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053, other than, to the greatest extent possible, the student achievement indicator adopted under Section 39.053(c)(1).

(b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):

(1) must:

(A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and

(B) include the results of assessments required under Section 39.023; and

(2) may be based on the results of a special accreditation investigation conducted under Section 39.057.

(c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:

(1) student performance in the current school year; or

(2) student performance as averaged over the current school year and the preceding two school years.

(d) In evaluating performance under Subsection (c), the commissioner:

(1) may assign an acceptable performance rating if the campus or district:

(A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and

(B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years;

(2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or

(3) may establish other performance criteria for a district or campus to obtain an exception under this subsection.

(d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.

(e) Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to:

(1) standards established for each indicator; and

(2) required improvement as defined under Section 39.053(e).

(f) In the computation of dropout rates under Section 39.053(c)(2), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the school district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Secs. 39.072 and 39.073); am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), §§ 44(a), 45(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 44(b) provides: "This section applies beginning with the 2016-2017 school year."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 45(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.0545. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 167] Evaluating Dropout Recovery Schools.

(a) For purposes of evaluating performance under Section 39.053(c), the commissioner shall designate as a dropout recovery school a school district or an open-enrollment charter school or a campus of a district or of an open-enrollment charter school:

(1) that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2) that meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

(b) Notwithstanding Section 39.053(c)(2), the commissioner shall use the alternative completion rate under this subsection to determine the student achievement indicator under Section 39.053(c)(2) for a dropout recovery school. The alternative completion rate shall be the ratio of the total number of students who graduate, continue attending school into the next academic year, or receive a high school equivalency certificate to the total number of students in the longitudinal cohort of students.

(c) Notwithstanding Section 39.053(c)(2), in determining the performance rating under Section 39.054 of a dropout recovery school, the commissioner shall include any student described by Section 39.053(g-1) who graduates or receives a high school equivalency certificate.

(d) For a dropout recovery school, only the best result from the primary administration and any retake of an assessment instrument administered to a student in the school year evaluated under the accountability procedures adopted by the commissioner may be considered in determining the performance rating of the school under Section 39.054.

(Enacted by Acts 2013, 83rd Leg., ch. 167 (S.B. 1538), § 1, effective May 24, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 167 (S.B. 1538), § 2 provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.0545. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 211] School District Evaluation of Performance in Community and Student Engagement; Compliance.

(a) Each school district shall evaluate the district's performance and the performance of each campus in the district in community and student engagement and in compliance as provided by this section and assign the district and each campus a performance rating of exemplary, recognized, acceptable, or unacceptable for both overall performance and each individual evaluation factor listed under Subsection (b). Not later than August 8 of each year, the district shall report each performance rating to the agency and make the performance ratings publicly available as provided by commissioner rule.

(b) For purposes of assigning the performance ratings under Subsection (a), a school district must evaluate:

(1) the following programs or specific categories of performance at each campus:

(A) fine arts;

(B) wellness and physical education;

(C) community and parental involvement, such as:

(i) opportunities for parents to assist students in preparing for assessments under Section 39.023;

(ii) tutoring programs that support students taking assessments under Section 39.023; and

(iii) opportunities for students to participate in community service projects;

(D) the 21st Century Workforce Development program;

(E) the second language acquisition program;

(F) the digital learning environment;

(G) dropout prevention strategies; and

(H) educational programs for gifted and talented students; and

(2) the record of the district and each campus regarding compliance with statutory reporting and policy requirements.

(c) A school district shall use criteria developed by a local committee to evaluate:

(1) the performance of the district's campus programs and categories of performance under Subsection (b)(1); and

(2) the record of the district and each campus regarding compliance under Subsection (b)(2).

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 46(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 46(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.055. Student Ordered by a Juvenile Court or Student in Residential Facility Not Considered for Accountability Purposes.

Notwithstanding any other provision of this code except to the extent otherwise provided under Section 39.054(f), for purposes of determining the performance of a school district, campus, or open-enrollment charter school under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity or any student who is receiving treatment in a residential facility is not considered to be a student of the school district in which the program or facility is physically located or of an open-enrollment charter school, as applicable. The performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located or an open-enrollment charter school, as applicable.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 12, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 27, 61(1), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 903 (S.B. 894), §§ 1, 4, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 517 (S.B. 306), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 517 (S.B. 306), § 2 provides: "This Act applies beginning with the 2013-2014 school year."

Sec. 39.056. On-Site Investigations.

(a) The commissioner may:

(1) direct the agency to conduct on-site investigations of a school district at any time to answer any questions concerning a program, including special education, required by federal law or for which the district receives federal funds; and

(2) as a result of the investigation, change the accreditation status of a district, change the accountability rating of a district or campus, or withdraw a distinction designation under Subchapter G.

(b) The commissioner shall determine the frequency of on-site investigations by the agency according to annual comprehensive analyses of student performance and equity in relation to the student achievement indicators adopted under Section 39.053.

(c) In making an on-site accreditation investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the school district. The investigation may not be closed until information is obtained from each of those sources. The State Board of Education shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents a district or campus from screening the information.

(d) The agency shall give written notice to the superintendent and the board of trustees of a school district of any impending investigation of the district's accreditation.

(e) The investigators shall report orally and in writing to the board of trustees of the school district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

(f) A district which takes action with regard to the recommendations provided by the investigators as prescribed by Subsection (e) shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance

using improvement techniques that are goal oriented and research based.
(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 396, effective September 1, 1999; Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.16, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.074); am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 47, effective June 10, 2013.)

Sec. 39.057. Special Accreditation Investigations.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 211]** The commissioner shall authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (*l*);

(10) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;

(11) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;

(12) when a disproportionate number of students of a particular demographic group is graduating with a particular endorsement under Section 28.025(c-1);

(13) when an excessive number of students is graduating with a particular endorsement under Section 28.025(c-1); or

(14) as the commissioner otherwise determines necessary.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 509]** The commissioner may authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of

investigating or auditing a school district under that section;

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (*l*);

(10) when excessive numbers of students graduate under the minimum high school program;

(11) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other course determined by the commissioner as distinguishing between students participating in the recommended high school program from students participating in the minimum high school program;

(12) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;

(13) in response to a complaint submitted to the agency with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public school accountability, including accreditation, under this chapter; or

(14) as the commissioner otherwise determines necessary.

(b) If the agency's findings in an investigation under Subsection (a)(6) indicate that the board of trustees has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board.

(c) The commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to the agency concerning imposition of excessive paperwork requirements on classroom teachers.

(d) Based on the results of a special accreditation investigation, the commissioner may:

(1) take appropriate action under Subchapter E;

(2) lower the school district's accreditation status or a district's or campus's accountability rating; or

(3) take action under both Subdivisions (1) and (2).

(e) Regardless of whether the commissioner lowers the school district's accreditation status or a district's or campus's performance rating under Subsection (d), the commissioner may take action under Sections 39.102(a)(1) through (8) or Section 39.103 if the commissioner determines that the action is necessary to improve any area of a district's or campus's performance, including the district's financial accounting practices.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 396, effective September 1, 1999; Acts 1999, 76th Leg., ch. 931, effective August 30, 1999; Ascts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 433, effective September 1, 2004; Acts 2005, 79th Leg., ch. 723 (S.B. 493), § 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 16, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.075); am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 48(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 509 (S.B. 123), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 48(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 39.058. Conduct of Investigations.

(a) The agency shall adopt written procedures for conducting on-site investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(b) After completing an investigation, the agency shall present preliminary findings to any person the agency finds has violated a law, rule, or policy. Before issuing a report with its final findings, the agency must provide a person the agency finds has violated a law, rule, or policy an opportunity for an informal review by the commissioner or a designated hearing examiner.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.076).)

Sec. 39.071. Accreditation [Renumbered].

Renumbered to Tex. Educ. Code §§ 39.051 and 39.052 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.13, effective May 26, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Secs. 39.051, 39.052).)

Sec. 39.072. Accreditation Standards [Renumbered].

Renumbered to Tex. Educ. Code § 39.054 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.22, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1417 (H.B. 2172), § 3, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 4, § 4.011, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 4, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 694 (H.B. 2683), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1249 (S.B. 1820), § 1, effective June 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.14, effective May 26, 2006; am. Acts 2007, 80th Leg., ch. 746 (H.B. 3092), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.054).)

Sec. 39.0721. Gold Performance Rating Program [Deleted].

Deleted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 13(a), effective September 1, 2001.)

Sec. 39.073. Determining Accreditation Status [Renumbered].

Renumbered to Tex. Educ. Code § 39.054 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.23, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1417 (H.B. 2172), § 4, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), § 7, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1287 (H.B. 457), § 1, effective June 13, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.15, effective May 26, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.054).)

Sec. 39.0731. Alternative Accreditation Status Pilot Program for Certain Districts, Campuses, and Open-Enrollment Charter Schools [Expired].

Expired pursuant to Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 27, effective January 1, 2003.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 27, effective September 1, 2001.)

Sec. 39.074. On-Site Investigations [Renumbered].

Renumbered to Tex. Educ. Code § 39.056 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.24, effective September 1, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.16, effective May 26, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.056).)

Sec. 39.075. Special Accreditation Investigations [Renumbered].

Renumbered to Tex. Educ. Code § 39.057 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 2, § 2.25, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 931 (H.B. 2307), § 4, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 28, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 433 (H.B. 447), § 3, effective September 1, 2004; am. Acts 2005, 79th Leg., ch. 723 (S.B. 493), § 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1312 (S.B. 1031), § 16, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.057).)

Sec. 39.076. Conduct of Investigations [Renumbered].

Renumbered to Tex. Educ. Code § 39.058 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.058).)

SUBCHAPTER D
FINANCIAL ACCOUNTABILITY

Sec. 39.081. Definitions.

In this subchapter:

(1) "Parent" includes a guardian or other person having lawful control of a student.

(2) "System" means a financial accountability rating system developed under this subchapter.

(Acts 2001, 77th Leg., ch. 914, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3),

§ 59, effective June 19, 2009 (renumbered from Sec. 39.201).)

Sec. 39.082. Development and Implementation.

(a) The commissioner shall, in consultation with the comptroller, develop and implement separate financial accountability rating systems for school districts and open-enrollment charter schools in this state that:

(1) distinguish among school districts and distinguish among open-enrollment charter schools, as applicable, based on levels of financial performance;

(2) include procedures to:

(A) provide additional transparency to public education finance; and

(B) enable the commissioner and school district and open-enrollment charter school administrators to provide meaningful financial oversight and improvement; and

(3) include processes for anticipating the future financial solvency of each school district and open-enrollment charter school, including analysis of district and school revenues and expenditures for preceding school years.

(b) The system must include uniform indicators adopted by commissioner rule by which to measure the financial management performance and future financial solvency of a district or open-enrollment charter school. In adopting indicators under this subsection, the commissioner shall assign a point value to each indicator to be used in a scoring matrix developed by the commissioner. Any reference to a teacher in an indicator adopted by the commissioner under this subsection means a classroom teacher.

(c) The system may not include an indicator under Subsection (b) or any other performance measure that:

(1) requires a school district to spend at least 65 percent or any other specified percentage of district operating funds for instructional purposes; or

(2) lowers the financial management performance rating of a school district for failure to spend at least 65 percent or any other specified percentage of district operating funds for instructional purposes.

(d) The commissioner shall evaluate indicators adopted under Subsection (b) at least once every three years.

(e) Under the financial accountability rating system developed under this section, each school district or open-enrollment charter school, as applicable, shall be assigned a financial accountability rating. In adopting rules under this section, the commissioner, in consultation with the comptroller, shall determine the criteria for each designated performance rating.

(f) A district or open-enrollment charter school shall receive the lowest rating under the system if the district or school fails to achieve a satisfactory rating on:

(1) an indicator adopted under Subsection (b) relating to financial management or solvency that the commissioner determines to be critical; or

(2) a category of indicators that suggest trends leading to financial distress as determined by the commissioner.

(g) Before assigning a final rating under the system, the commissioner shall assign each district or open-enrollment charter school a preliminary rating. A district or school may submit additional information to the commissioner relating to any indicator on which performance was considered unsatisfactory. The commissioner shall consider any additional information submitted by a district or school before assigning a final rating. If the commissioner determines that the additional information negates the concern raised by the indicator on which performance was considered unsatisfactory, the commissioner may not penalize the district or school on the basis of the indicator.

(h) The commissioner shall adopt rules for the implementation of this section.

(h-1) **[Expires April 1, 2015]** The commissioner shall adopt initial rules necessary to implement the changes to this section made by the 83rd Legislature, Regular Session, 2013, not later than March 1, 2015. This subsection expires April 1, 2015.

(i) Not later than August 8 of each year, the financial accountability rating of each school district and open-enrollment charter school under the financial accountability rating system developed under this section shall be made publicly available as provided by rules adopted under this section.

(Acts 2001, 77th Leg., ch. 914, effective September 1, 2001; Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.05, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.202); am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 49(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 49(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 39.0821. Comptroller Review of Resource Allocation Practices.

(a) The comptroller shall identify school districts and campuses that use resource allocation practices that contribute to high academic achievement and

cost-effective operations. In identifying districts and campuses under this section, the comptroller shall:

(1) evaluate existing academic accountability and financial data by integrating the data;

(2) rank the results of the evaluation under Subdivision (1) to identify the relative performance of districts and campuses; and

(3) identify potential areas for district and campus improvement.

(b) In reviewing resources allocation practices of districts and campuses under this section, the comptroller shall ensure resources are being used for the instruction of students by evaluating:

(1) the operating cost for each student;

(2) the operating cost for each program; and

(3) the staffing cost for each student.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.0822. [Repealed September 1, 2014] Financial Solvency Review Required.

(a) The agency shall develop a review process to anticipate the future financial solvency of each school district. The review process shall analyze:

(1) district revenues and expenditures for the preceding school year; and

(2) projected district revenues and expenditures for the current school year and the following two school years.

(b) In analyzing the information under Subsection (a), the review process developed must consider, for the preceding school year, the current school year, and the following two school years, as appropriate:

(1) student-to-staff ratios relative to expenditures, including average staff salaries;

(2) the rate of change in the district unreserved general fund balance;

(3) the number of students enrolled in the district;

(4) the adopted tax rate of the district;

(5) any independent audit report prepared for the district; and

(6) actual district financial information for the first quarter.

(c) The agency shall consult school district financial officers and public finance experts in developing the review process under this section.

(d) The agency shall develop an electronic-based program for school districts to use in submitting information to the agency for purposes of this section. Each district shall update information for purposes of the program within the period prescribed by the commissioner. The commissioner shall adopt rules under this subsection to allow a district to enter estimates of critical data into the program before the district adopts its budget. The program must:

(1) be capable of importing, to the extent practicable, data a district has previously submitted to the agency;

(2) include an entry space that allows a district to enter information explaining any irregularity in data submitted; and

(3) provide alerts for:

(A) a student-to-staff ratio that is significantly outside the norm;

(B) a rapid depletion of the district general fund balance; and

(C) a significant discrepancy between actual budget figures and projected revenues and expenditures.

(e) An alert in the program developed under Subsection (d) must be developed to notify the agency immediately on the occurrence of a condition described by Subsection (d)(3). After the agency is alerted, the agency shall immediately notify the affected school district regarding the condition triggering the alert.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.0823. Projected Deficit.

(a) If the commissioner, based on the indicators adopted under Section 39.082 or other relevant information, projects a deficit for a school district or open-enrollment charter school general fund within the following three school years, the agency shall provide the district or school interim financial reports, including projected revenues and expenditures, to evaluate the current budget status of the district or school.

(b) **[Repealed September 1, 2014]** If the interim financial data provided under Subsection (a) substantiates the projected deficit, the school district shall develop a financial plan and submit the plan to the agency for approval. The agency may approve the plan only if the agency determines the plan will permit the district to avoid the projected insolvency.

(c) **[Repealed September 1, 2014]** The commissioner shall assign a school district an accredited-warned status if:

(1) the district fails to submit a plan as provided by Subsection (b);

(2) the district fails to obtain approval from the agency for a plan as provided by Subsection (b);

(3) the district fails to comply with a plan approved by the agency under Subsection (b); or

(4) the agency determines in a subsequent school year, based on financial data submitted by

the district, that the approved plan for the district is no longer sufficient or is not appropriately implemented.

(d) The agency may require a district or open-enrollment charter school to submit additional information needed to produce a financial report under Subsection (a). If a district or school fails to provide information requested under this subsection or if the commissioner determines that the information submitted by a district or school is unreliable, the commissioner may order the district or school to acquire professional services as provided by Section 39.109.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 50(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(b)(5), effective September 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 50(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.0824. Corrective Action Plan.

(a) A school district or open-enrollment charter school assigned the lowest rating under Section 39.082 shall submit to the commissioner a corrective action plan to address the financial weaknesses of the district or school. A corrective action plan must identify the specific areas of financial weaknesses, such as financial weaknesses in transportation, curriculum, or teacher development, and include strategies for improvement.

(b) The commissioner may impose appropriate sanctions under Subchapter E against a district or school failing to submit or implement a corrective action plan required under Subsection (a).

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 51(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 51(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.083. Reporting.

(a) The commissioner shall develop, as part of the system, a reporting procedure under which:

(1) each school district is required to prepare and distribute an annual financial management report; and

(2) the public is provided an opportunity to comment on the report at a hearing.

(b) The annual financial management report must include:

(1) a description of the district's financial management performance based on a comparison, provided by the agency, of the district's performance on the indicators adopted under Section 39.082(b) to:

(A) state-established standards; and

(B) the district's previous performance on the indicators; and

(2) any descriptive information required by the commissioner.

(c) The report may include:

(1) information concerning the district's:

(A) financial allocations;

(B) tax collections;

(C) financial strength;

(D) operating cost management;

(E) personnel management;

(F) debt management;

(G) facility acquisition and construction management;

(H) cash management;

(I) budgetary planning;

(J) overall business management;

(K) compliance with rules; and

(L) data quality; and

(2) any other information the board of trustees determines to be necessary or useful.

(d) The board of trustees of each school district shall hold a public hearing on the report. The board shall give notice of the hearing to owners of real property in the district and to parents of district students. In addition to other notice required by law, notice of the hearing must be provided:

(1) to a newspaper of general circulation in the district; and

(2) through electronic mail to media serving the district.

(e) After the hearing, the report shall be disseminated in the district in the manner prescribed by the commissioner.

(Acts 2001, 77th Leg., ch. 914, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.203); am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 52(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 52(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 39.084. Posting of Adopted Budget.

(a) On final approval of the budget by the board of trustees, the school district shall post on the district's Internet website a copy of the budget adopted by the board of trustees. The district's Internet website must prominently display the electronic link to the adopted budget.

(b) The district shall maintain the adopted budget on the district's Internet website until the third anniversary of the date the budget was adopted.
(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.085. Rules.

The commissioner shall adopt rules as necessary for the implementation and administration of this subchapter.
(Acts 2001, 77th Leg., ch. 914, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.204).)

Sec. 39.086. Software Standards.

(a) The Department of Information Resources, in cooperation with the commissioner, shall adopt performance and interoperability standards for software used by school districts for financial accounting or attendance reporting.

(b) Standards adopted under this section must ensure that the software will enable a school district to share and report information in a timely manner for purposes of financial management, operational decision-making, and transparency of district operations to the public.

(c) The Department of Information Resources:

(1) shall include compliance with standards adopted under this section as a requirement in any solicitation for software anticipated to be used for a purpose described by Subsection (a);

(2) shall require a vendor awarded a contract in response to a solicitation described by Subdivision (1) to certify that the software complies with the standards adopted under this section; and

(3) may negotiate state contract pricing for software that complies with the standards adopted under this section.

(Enacted by Acts 2009, 81st Leg., ch. 393 (H.B. 1705), § 2.06, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(6), effective September 1, 2011 (renumbered from Sec. 39.205).)

Sec. 39.091. Creation of System [Renumbered].

Renumbered to Tex. Educ. Code § 39.261 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.261).)

Sec. 39.092. Types of Awards [Renumbered].

Renumbered to Tex. Educ. Code § 39.262 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.262).)

Sec. 39.093. Awards [Renumbered].

Renumbered to Tex. Educ. Code § 39.263 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.263).)

Sec. 39.094. Use of Awards [Renumbered].

Renumbered to Tex. Educ. Code § 39.264 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.264).)

Sec. 39.095. Funding [Renumbered].

Renumbered to Tex. Educ. Code § 39.265 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.265).)

Sec. 39.096. Confidentiality [Renumbered].

Renumbered to Tex. Educ. Code § 39.266 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.266).)

SUBCHAPTER E
ACCREDITATION INTERVENTIONS AND SANCTIONS

Sec. 39.102. Interventions and Sanctions for Districts.

(a) If a school district does not satisfy the accreditation criteria under Section 39.052, the academic

performance standards under Section 39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the insufficient performance, the improvements in performance expected by the agency, and the interventions and sanctions that may be imposed under this section if the performance does not improve;

(3) order the preparation of a student achievement improvement plan that addresses each student achievement indicator under Section 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a conservator to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person;

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, fails to satisfy any standard under Section 39.054(e), or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has failed to satisfy any standard under Section 39.054(e), or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and:

(A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or

(B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or

(11) if a district has failed to satisfy any standard under Section 39.054(e) due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

(A) ordering the development of a dropout prevention plan for approval by the commissioner;

(B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;

(C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and

(D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

(b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1365, effective June 19, 1999; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; Acts 2003, 78th Leg., ch. 1201, effective September 1, 2003; Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.17, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.131).)

Sec. 39.103. Interventions and Sanctions for Campuses.

(a) If a campus performance is below any standard under Section 39.054(e), the commissioner shall take actions, to the extent the commissioner determines necessary, as provided by this subchapter.

(b) For a campus described by Subsection (a), the commissioner, to the extent the commissioner determines necessary, may:

(1) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees, the superintendent, and the campus principal shall appear

and explain the campus's low performance, lack of improvement, and plans for improvement; or

(2) establish a school community partnership team composed of members of the campus-level planning and decision-making committee established under Section 11.251 and additional community representatives as determined appropriate by the commissioner.

(c) Notwithstanding the provisions of this subchapter, if the commissioner determines that a campus subject to interventions or sanctions under this subchapter has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with this subchapter.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1365, effective June 19, 1999; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 1212, effective June 20, 2003; Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; Acts 2003, 78th Leg., ch. 3, effective January 11, 2004; Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.18, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 4.009, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.132).)

Sec. 39.104. Interventions and Sanctions for Charter Schools.

(a) Interventions and sanctions authorized under this chapter for a school district or campus apply in the same manner to an open-enrollment charter school.

(b) The commissioner shall adopt rules to implement procedures to impose any intervention or sanction provision under this chapter as those provisions relate to open-enrollment charter schools.

(c) In adopting rules under this section, the commissioner shall require that the charter of an open-enrollment charter school:

(1) be automatically revoked if the charter school is ordered closed under this chapter; and

(2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.

(d) If interventions or sanctions are imposed on an open-enrollment charter school under the procedures provided by this chapter, a charter school is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Subchapter D, Chapter 12.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.19, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.1321).)

Sec. 39.105. Campus Improvement Plan.

(a) This section applies if a campus performance satisfies performance standards under Section 39.054(e) for the current school year but would not satisfy performance standards under Section 39.054(e) if the standards to be used for the following school year were applied to the current school year. On request of the commissioner, the campus-level committee established under Section 11.251 shall revise and submit to the commissioner in an electronic format the portions of the campus improvement plan developed under Section 11.253 that are relevant to those areas for which the campus would not satisfy performance standards.

(b) If the campus to which this section applies is an open-enrollment charter school, the school shall establish a campus-level planning and decision-making committee as provided for through procedures as much as practicable the same as those provided by Sections 11.251(b)—(e) and develop a campus improvement plan as provided by Section 11.253. On request of the commissioner, the school shall submit to the commissioner in an electronic format the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.19, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.1322).)

Sec. 39.106. Campus Intervention Team Duties.

(a) If a campus performance is below any standard under Section 39.054(e), the commissioner shall assign a campus intervention team. A campus intervention team shall:

(1) conduct, with the involvement and advice of the school community partnership team, if applicable:

(A) a targeted on-site needs assessment relevant to an area of insufficient performance of the campus as provided by Subsection (b); or

(B) if the commissioner determines necessary, a comprehensive on-site needs assessment, using the procedures provided by Subsection (b);

(2) recommend appropriate actions as provided by Subsection (c);

(3) assist in the development of a targeted improvement plan;

(4) assist the campus in submitting the targeted improvement plan to the board of trustees for approval and presenting the plan in a public hearing as provided by Subsection (e-1); and

(5) assist the commissioner in monitoring the progress of the campus in implementing the targeted improvement plan.

(b) An on-site needs assessment of the campus under Subsection (a) must determine the contributing education-related and other factors resulting in the campus's low performance and lack of progress. The team shall use all of the following guidelines and procedures relevant to each area of insufficient performance in conducting a targeted on-site needs assessment and shall use each of the following guidelines and procedures in conducting a comprehensive on-site needs assessment:

(1) an assessment of the staff to determine the percentage of certified teachers who are teaching in their field, the percentage of teachers who are fully certified, the number of teachers with more than three years of experience, and teacher retention rates;

(2) compliance with the appropriate class-size rules and number of class-size waivers received;

(3) an assessment of the quality, quantity, and appropriateness of instructional materials, including the availability of technology-based instructional materials;

(4) a report on the parental involvement strategies and the effectiveness of the strategies;

(5) an assessment of the extent and quality of the mentoring program provided for new teachers on the campus and provided for experienced teachers on the campus who have less than two years of teaching experience in the subject or grade level to which the teacher is assigned;

(6) an assessment of the type and quality of the professional development provided to the staff;

(7) a demographic analysis of the student population, including student demographics, at-risk populations, and special education percentages;

(8) a report of disciplinary incidents and school safety information;

(9) financial and accounting practices;

(10) an assessment of the appropriateness of the curriculum and teaching strategies;

(11) a comparison of the findings from Subdivisions (1) through (10) to other campuses serving the same grade levels within the district or to other campuses within the campus's comparison group if there are no other campuses within the district serving the same grade levels as the campus; and

(12) any other research-based data or information obtained from a data collection process that would assist the campus intervention team in:

(A) recommending an action under Subsection (c); and

(B) executing a targeted improvement plan under Subsection (d-3).

(c) On completing the on-site needs assessment under this section, the campus intervention team shall, with the involvement and advice of the school community partnership team, if applicable, recommend actions relating to any area of insufficient performance, including:

(1) reallocation of resources;

(2) technical assistance;

(3) changes in school procedures or operations;

(4) staff development for instructional and administrative staff;

(5) intervention for individual administrators or teachers;

(6) waivers from state statutes or rules;

(7) teacher recruitment or retention strategies and incentives provided by the district to attract and retain teachers with the characteristics included in Subsection (b)(1); or

(8) other actions the campus intervention team considers appropriate.

(d) The campus intervention team shall assist the campus in submitting the targeted improvement plan to the commissioner for approval.

(d-1) The commissioner may authorize a school community partnership team established under this subchapter to supersede the authority of and satisfy the requirements of establishing and maintaining a campus-level planning and decision-making committee under Subchapter F, Chapter 11.

(d-2) The commissioner may authorize a targeted improvement plan or updated plan developed under this subchapter to supersede the provisions of and satisfy the requirements of developing, reviewing, and revising a campus improvement plan under Subchapter F, Chapter 11.

(d-3) In executing the targeted improvement plan, the campus intervention team shall, if appropriate:

(1) assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs and financial management;

(2) provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and

(3) require the district to develop a teacher recruitment and retention plan to address the

qualifications and retention of the teachers at the campus.

(e) For each year a campus is assigned an unacceptable performance rating, a campus intervention team shall:

(1) continue to work with a campus until:

(A) the campus satisfies all performance standards under Section 39.054(e) for a two-year period; or

(B) the campus satisfies all performance standards under Section 39.054(e) for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement;

(2) assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; and

(3) submit each updated plan described by Subdivision (2) to the board of trustees of the school district.

(e-1) After a targeted improvement plan or updated plan is submitted to the board of trustees of the school district, the board:

(1) shall conduct a hearing for the purpose of:

(A) notifying the public of the insufficient performance, the improvements in performance expected by the agency, and the intervention measures or sanctions that may be imposed under this subchapter if the performance does not improve within a designated period; and

(B) soliciting public comment on the targeted improvement plan or any updated plan;

(2) must post the targeted improvement plan on the district's Internet website before the hearing;

(3) may conduct one hearing relating to one or more campuses subject to a targeted improvement plan or an updated plan; and

(4) shall submit the targeted improvement plan or any updated plan to the commissioner for approval.

(f) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Subsection (a) is not fully implementing the campus intervention team's recommendations or targeted improvement plan or updated plan, the commissioner may order the reconstitution of the campus as provided by Section 39.107.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.19, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.106); am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.010, effective September 1, 2011.)

Sec. 39.107. Reconstitution, Repurposing, Alternative Management, and Closure.

(a) After a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the reconstitution of the campus.

(a-1) In reconstituting a campus, a campus intervention team shall assist the campus in:

(1) developing an updated targeted improvement plan;

(2) submitting the updated targeted improvement plan to the board of trustees of the school district for approval and presenting the plan in a public hearing as provided by Section 39.106(e-1);

(3) obtaining approval of the updated plan from the commissioner; and

(4) executing the plan on approval by the commissioner.

(b) The campus intervention team shall decide which educators may be retained at that campus. A principal who has been employed by the campus in that capacity during the full period described by Subsection (a) may not be retained at that campus unless the campus intervention team determines that retention of the principal would be more beneficial to the student achievement and campus stability than removal.

(b-1) A teacher of a subject assessed by an assessment instrument under Section 39.023 may be retained only if the campus intervention team determines that a pattern exists of significant academic improvement by students taught by the teacher. If an educator is not retained, the educator may be assigned to another position in the district.

(b-2) For each year that a campus is considered to have an unacceptable performance rating, a campus intervention team shall:

(1) assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement;

(2) submit the updated plan to:

(A) the board of trustees of the school district; and

(B) the parents of campus students; and

(3) assist in submitting the updated plan to the commissioner for approval.

(c) A campus subject to Subsection (a) shall implement the updated targeted improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or board of managers to the district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan. In making appointments under this subsection, the commissioner shall

consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

(d) If the commissioner determines that the campus is not fully implementing the updated targeted improvement plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the updated plan, the commissioner may order:

(1) repurposing of the campus under this section;

(2) alternative management of the campus under this section; or

(3) closure of the campus.

(e) If a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted under Subsection (a), the commissioner, subject to Subsection (e-1) or (e-2), shall order:

(1) repurposing of the campus under this section;

(2) alternative management of the campus under this section; or

(3) closure of the campus.

(e-1) The commissioner may waive the requirement to enter an order under Subsection (e) for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating for the following school year.

(e-2) For purposes of this subsection, "parent" has the meaning assigned by Section 12.051. If the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents of a majority of the students enrolled at a campus to which Subsection (e) applies, specifying the action described by Subsection (e)(1), (2), or (3) that the parents request the commissioner to order, the commissioner shall, except as otherwise authorized by this subsection, order the specific action requested. If the board of trustees of the school district in which the campus is located presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order specific action authorized under Subsection (e) other than the specific action requested in the parents' petition and a written explanation of the basis for the board's request, the commissioner may order the action requested by the board of trustees.

(e-3) For purposes of Subsection (e-2), the signature of only one parent of a student is required.

(f) If the commissioner orders repurposing of a campus, the school district shall develop a comprehensive plan for repurposing the campus and submit the plan to the board of trustees for approval, using the procedures described by Section 39.106(e-1), and to the commissioner for approval. The plan must include a description of a rigorous and relevant academic program for the campus. The plan may include various instructional models. The commissioner may not approve the repurposing of a campus unless:

(1) all students in the assigned attendance zone of the campus in the school year immediately preceding the repurposing of the campus are provided with the opportunity to enroll in and are provided transportation on request to another campus, unless the commissioner grants an exception because there is no other campus in the district in which the students may enroll;

(2) the principal is not retained at the campus, unless the commissioner determines that students enrolled at the campus have demonstrated significant academic improvement; and

(3) teachers employed at the campus in the school year immediately preceding the repurposing of the campus are not retained at the campus, unless the commissioner or the commissioner's designee grants an exception, at the request of a school district, for:

(A) a teacher who provides instruction in a subject other than a subject for which an assessment instrument is administered under Section 39.023(a) or (c) who demonstrates to the commissioner satisfactory performance; or

(B) a teacher who provides instruction in a subject for which an assessment instrument is administered under Section 39.023(a) or (c) if the district demonstrates that the students of the teacher demonstrated satisfactory performance or improved academic growth on that assessment instrument.

(g) If an educator is not retained under Subsection (f), the educator may be assigned to another position in the district.

(h) If the commissioner orders alternative management under this section, the commissioner shall solicit proposals from qualified nonprofit entities to assume management of a campus subject to this section or may appoint to assume management of a campus subject to this section a school district other than the district in which the campus is located that is located in the boundaries of the same regional education service center as the campus is located. The commissioner may solicit proposals from qualified for-profit entities to assume management of a campus subject to this section if a nonprofit entity

has not responded to the commissioner's request for proposals. A district appointed under this section shall assume management of a campus subject to this section in the same manner provided by this section for a qualified entity or in accordance with commissioner rule.

(i) If the commissioner determines that the basis for the unsatisfactory performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance.

(j) The commissioner may annually solicit proposals under this section for the management of a campus subject to this section. The commissioner shall notify a qualified entity that has been approved as a provider under this section. The district must execute a contract with an approved provider and relinquish control of the campus before January 1 of the school year.

(k) To qualify for consideration as a managing entity under this section, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals that have:

(1) documented success in whole school interventions that increased the educational and performance levels of students in campuses considered to have an unacceptable performance rating;

(2) a proven record of effectiveness with programs assisting low-performing students;

(3) a proven ability to apply research-based school intervention strategies;

(4) a proven record of financial ability to perform under the management contract; and

(5) any other experience or qualifications the commissioner determines necessary.

(*l*) In selecting a managing entity under this section, the commissioner shall give preference to a qualified entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

(m) The school district may negotiate the term of a management contract for not more than five years with an option to renew the contract. The management contract must include a provision describing the district's responsibilities in supporting the operation of the campus. The commissioner shall approve the contract before the contract is executed and, as appropriate, may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the management contract.

(n) A management contract under this section shall include provisions approved by the commissioner that require the managing entity to demonstrate improvement in campus performance, including negotiated performance measures. The performance measures must be consistent with the priorities of this chapter. The commissioner shall evaluate a managing entity's performance on the first and second anniversaries of the date of the management contract. If the evaluation fails to demonstrate improvement as negotiated under the contract by the first anniversary of the date of the management contract, the district may terminate the management contract, with the commissioner's consent, for nonperformance or breach of contract and select another provider from an approved list provided by the commissioner. If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall terminate the management contract and select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner. If the commissioner approves the district's operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

(o) Notwithstanding any other provision of this code, the funding for a campus operated by a managing entity must be not less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received.

(p) Each campus operated by a managing entity under this section is subject to this chapter in the same manner as any other campus in the district.

(q) The commissioner may adopt rules necessary to implement this section.

(r) With respect to the management of a campus under this section:

(1) a managing entity is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) any requirement in Chapter 551 or 552, Government Code, that applies to a school district or the board of trustees of a school district applies to a managing entity.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.19, effective May 31, 2006; am. Acts 2009, 81st Leg., ch.

895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Secs. 39.1324 and 39.1327); am. Acts 2011, 82nd Leg., ch. 900 (S.B. 738), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 900 (S.B. 738), § 2 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 39.108. Annual Review.

The commissioner shall review annually the performance of a district or campus subject to this subchapter to determine the appropriate actions to be implemented under this subchapter. The commissioner must review at least annually the performance of a district for which the accreditation status or rating has been lowered due to insufficient student performance and may not raise the accreditation status or rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1365, effective June 19, 1999; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.133).)

Sec. 39.109. Acquisition of Professional Services.

In addition to other interventions and sanctions authorized under this subchapter, the commissioner may order a school district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The commissioner's order may require the district or campus to:

(1) select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or

(2) provide for or participate in the appropriate training of district staff or board of trustees members in the case of a district, or campus staff, in the case of a campus.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.20, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.1331).)

Sec. 39.110. Costs Paid by District.

The costs of providing a monitor, conservator, management team, campus intervention team, technical assistance team, managing entity, or service provider under this subchapter shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

(1) pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or

(2) recover the amount of the costs in the manner provided for recovery of an overallocation of state funds under Section 42.258.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1365, effective June 19, 1999; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.21, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.134).)

Sec. 39.111. Conservator or Management Team.

(a) The commissioner shall clearly define the powers and duties of a conservator or management team appointed to oversee the operations of the district.

(b) At least every 90 days, the commissioner shall review the need for the conservator or management team and shall remove the conservator or management team unless the commissioner determines that continued appointment is necessary for effective governance of the district or delivery of instructional services.

(c) A conservator or management team, if directed by the commissioner, shall prepare a plan for the implementation of action under Section 39.102(a)(9) or (10). The conservator or management team:

(1) may direct an action to be taken by the principal of a campus, the superintendent of the district, or the board of trustees of the district;

(2) may approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board of trustees of the district;

(3) may not take any action concerning a district election, including ordering or canceling an election or altering the date of or the polling places for an election;

(4) may not change the number of or method of selecting the board of trustees;

(5) may not set a tax rate for the district; and

(6) may not adopt a budget for the district that provides for spending a different amount, exclusive of required debt service, from that previously adopted by the board of trustees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.135).)

Sec. 39.112. Board of Managers.

(a) A board of managers may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation. This subchapter applies to a district governed by a board of managers in the same manner that this subchapter applies to any other district.

(b) If the commissioner appoints a board of managers to govern a district, the powers of the board of trustees of the district are suspended for the period of the appointment and the commissioner shall appoint a district superintendent. Notwithstanding any other provision of this code, the board of managers may amend the budget of the district.

(c) If the commissioner appoints a board of managers to govern a campus, the powers of the board of trustees of the district in relation to the campus are suspended for the period of the appointment and the commissioner shall appoint a campus principal. Notwithstanding any other provision of this code, the board of managers may submit to the commissioner for approval amendments to the budget of the district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the district shall adopt the amendments.

(d) A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner.

(e) At the direction of the commissioner but not later than the second anniversary of the date the board of managers of a district was appointed, the board of managers shall order an election of members of the district board of trustees. The election must be held on a uniform election date on which an election of district trustees may be held under Section 41.001, Election Code, that is at least 180 days after the date the election was ordered. On qualification of members for office, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.136).)

Sec. 39.113. Campus Intervention Team Members.

A campus intervention team appointed under this subchapter may consist of teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner to serve as members of a team.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1365, effective June 19, 1999; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.137); am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.011, effective September 1, 2011.)

Sec. 39.114. Immunity from Civil Liability.

An employee, volunteer, or contractor acting on behalf of the commissioner under this subchapter is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1365, effective June 19, 1999; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2001, 77th Leg., ch. 1504, effective September 1, 2001; Acts 2003, 78th Leg., ch. 342, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.138).)

Sec. 39.115. Campus Name Change Prohibited.

In reconstituting, repurposing, or imposing any other intervention or sanction on a campus under this subchapter, the commissioner may not require that the name of the campus be changed.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.116. [Expires September 1, 2014] Transitional Interventions and Sanctions.

(a) During the period of transition to the accreditation system established under H.B. No. 3, Acts of the 81st Legislature, Regular Session, 2009, to be implemented in August 2013, the commissioner may suspend assignment of accreditation statuses and performance ratings for the 2011-2012 school year.

(b) As soon as practicable following the 2011-2012 school year, the commissioner shall report district

and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B).

(c) For the 2012-2013 school year, the commissioner shall:

(1) report district and campus performance under the student achievement indicator under Section 39.053(c)(1)(B); and

(2) evaluate district and campus performance under the student achievement indicator under Section 39.053(c)(1)(A) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.

(d) Beginning with the 2013-2014 school year, the commissioner shall evaluate district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B) and assign district accreditation statuses and district and campus performance ratings based on that evaluation.

(e) During the 2011-2012 and 2012-2013 school years, the commissioner shall continue to implement interventions and sanctions for districts and campuses identified as having unacceptable performance in the 2010-2011 school year in accordance with the performance standards applicable during the 2010-2011 school year and may increase or decrease the level of interventions and sanctions based on an evaluation of the district's or campus's performance.

(f) For purposes of determining multiple years of unacceptable performance and required district and campus interventions and sanctions under this subchapter, the performance ratings and accreditation statuses issued in the 2010-2011 and 2012-2013 school years shall be considered consecutive.

(g) This section expires September 1, 2014.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.117. [Expires September 1, 2018] Special Student Recovery Program.

(a) This section applies only to a school district with a student enrollment of at least 60,000 that is located in a county on the international border with a population of 800,000 or more.

(b) The commissioner may require a school district to which this section applies to operate a special student recovery program if the commissioner has imposed a sanction under Section 39.102 based on a determination that the district has, for the purpose of affecting the performance rating under Section 39.054 or former Section 39.072 or a distinction designation under Section 39.202 or 39.203 of the district or a campus in the district:

(1) assigned a student to a grade level to which the student would not otherwise be assigned, in violation of local policy;

(2) retained a student at a grade level at which the student would not otherwise be retained, in violation of local policy;

(3) declined to admit to the schools of the district a student with limited English proficiency who was eligible for admission; or

(4) encouraged a student who was eligible for admission to the district to enroll in another district or drop out of school.

(c) The commissioner shall require a school district to which this section applies to operate a special student recovery program if the superintendent or assistant superintendent of the district or a principal or assistant principal of a campus in the district is convicted of or receives a grant of deferred adjudication community supervision for an offense associated with conduct described by Subsection (b).

(d) A special student recovery program must include:

(1) identification of students affected by conduct described by Subsection (b), with an emphasis on identifying and obtaining current addresses for students who dropped out of school after the conduct;

(2) notification of students identified under Subdivision (1) of the availability of educational services provided through the program;

(3) provision of appropriate compensatory, intensive, and accelerated instructional services for students identified under Subdivision (1), including services designed to enable students to obtain high school equivalency certificates under Section 7.111; and

(4) for students identified under Subdivision (1) who are at least 21 years of age and under 26 years of age, the offer of admission to the schools of the district for the purpose of completing the requirements for a high school diploma, as authorized by Section 25.001.

(e) A student who is at least 21 years of age and is admitted to the schools of the district under Subsection (d)(4) is subject to the placement restrictions described by Section 25.001(b-2) if the student has not attended school in the three preceding school years.

(f) In addition to any other available funds, a school district may use funds provided to the district under Section 42.152 to pay the costs of the program. Instructional services may be provided to students identified under Subsection (d)(1) who are under 26 years of age using funds provided under Section 42.152 or other Foundation School Program funds, notwithstanding Section 42.003.

(g) This section requires a school district to provide instructional services only to a student who is a resident of this state and is eligible for admission to the schools of the district under Section 25.001, including eligibility described by that section for students who are under 26 years of age.

(h) The commissioner shall determine the duration of a special student recovery program, provided that the program must have a duration of at least two years. Before a program may be concluded, the district must conduct a public hearing in the community served by the school district to solicit comments from students, parents, and other members of the community regarding whether there is a continuing need for the program.

(i) The commissioner shall adopt rules necessary to implement this section.

(j) This section expires September 1, 2018.

(Enacted by Acts 2013, 83rd Leg., ch. 731 (S.B. 119), § 1, effective June 14, 2013.)

Sec. 39.131. Sanctions for Districts [Renumbered].

Renumbered to Tex. Educ. Code § 39.102 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1365 (H.B. 1104), § 2, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 14, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 29, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1201 (S.B. 976), § 3, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 13, effective June 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), §§ 3.17, 3.18, 3.20, 3.21, effective May 26, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.102).)

Sec. 39.132. Sanctions for Academically Unacceptable Campuses [Renumbered].

Renumbered to Tex. Educ. Code § 39.103 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(b)); am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), art. 17, § 17.01, effective January 11, 2004; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 4.009, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.103).)

Sec. 39.1321. Sanctions for Charter Schools [Renumbered].

Renumbered to Tex. Educ. Code § 39.104 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.1322. Technical Assistance and Campus Intervention Teams [Renumbered].

Renumbered to Tex. Educ. Code § 39.105 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.1323. Campus Intervention Team Procedures [Renumbered].

Renumbered to Tex. Educ. Code § 39.106 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.1324. Mandatory Sanctions [Renumbered].

Renumbered to Tex. Educ. Code § 39.107 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.1326. Transitional Sanctions Provisions [Expired].

Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 296), § 3.19, effective September 1, 2008.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.19, effective May 31, 2006.)

Sec. 39.1327. Management of Certain Academically Unacceptable Campuses [Renumbered].

Renumbered to Tex. Educ. Code § 39.107 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.133. Annual Review [Renumbered].

Renumbered to Tex. Educ. Code § 39.108 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1365 (H.B. 1104), § 2, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 14, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 29, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(c)); am. Acts 2003, 78th Leg., ch. 1201 (S.B. 976), § 3, effective September 1, 2003;

am. Acts 2003, 78th Leg., ch. 1212 (S.B. 1108), § 13, effective June 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.17, effective May 26, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.108).)

Sec. 39.1331. Acquisition of Professional Services [Renumbered].

Renumbered to Tex. Educ. Code § 39.109 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.134. Costs Paid by District [Renumbered].

Renumbered to Tex. Educ. Code § 39.110 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(d)); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.110).)

Sec. 39.135. Conservator or Management Team [Renumbered].

Renumbered to Tex. Educ. Code § 39.111 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(e)); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.111).)

Sec. 39.136. Board of Managers [Renumbered].

Renumbered to Tex. Educ. Code § 39.112 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(f)); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.112).)

Sec. 39.137. Special Campus Intervention Team [Renumbered].

Renumbered to Tex. Educ. Code § 39.113 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(g)); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.113).)

Sec. 39.138. Immunity from Civil Liability [Renumbered].

Renumbered to Tex. Educ. Code § 39.114 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 342 (S.B. 618), § 5, effective September 1, 2003 (renumbered from Sec. 39.131(j)); am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.114).)

SUBCHAPTER F
PROCEDURES FOR CHALLENGE OF ACCOUNTABILITY DETERMINATION, INTERVENTION, OR SANCTION

Sec. 39.151. Review by Commissioner: Accountability Determination.

(a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district or school.

(b) The rules under Subsection (a) must provide for the commissioner to appoint a committee to make recommendations to the commissioner on a challenge made to an agency decision relating to an academic performance rating or determination or financial accountability rating. The commissioner may not appoint an agency employee as a member of the committee.

(c) The commissioner may limit a challenge under this section to a written submission of any issue identified by the school district or open-enrollment charter school challenging the agency decision.

(d) The commissioner shall make a final decision under this section after considering the recommendation of the committee described by Subsection (b). The commissioner's decision may not be appealed under Section 7.057 or other law.

(e) A school district or open-enrollment charter school may not challenge an agency decision relating to an academic or financial accountability rating under this chapter in another proceeding if the district or school has had an opportunity to challenge the decision under this section.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.22, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.301).)

Sec. 39.152. Review by State Office of Administrative Hearings: Sanctions.

(a) A school district or open-enrollment charter school that intends to challenge a decision by the

commissioner under this chapter to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school must appeal the decision under this section.

(b) A challenge to a decision under this section is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code. The commissioner shall adopt procedural rules for a challenge under this section.

(c) Notwithstanding other law:

(1) the State Office of Administrative Hearings shall conduct an expedited review of a challenge under this section;

(2) the administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed;

(3) the decision of the administrative law judge is final and may not be appealed; and

(4) the decision of the administrative law judge may set an effective date for an action under this section.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.22, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.302); am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 43, effective September 1, 2013.)

Sec. 39.181. General Requirements [Renumbered].

Renumbered to Tex. Educ. Code § 39.331 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.331).)

Sec. 39.182. Comprehensive Annual Report [Renumbered].

Renumbered to Tex. Educ. Code § 39.332 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1417 (H.B. 2172), § 5, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), §§ 8, 9, effective June 13, 2001; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 15, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1269 (S.B. 900), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 8, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 6, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.332).)

Sec. 39.183. Regional and District Level Report [Renumbered].

Renumbered to Tex. Educ. Code § 39.333 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 268 (S.B. 1158), § 3, effective May 26, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 2 (2.26), effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 889 (H.B. 3313), § 3, effective June 14, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.333).)

Sec. 39.184. Technology Report [Renumbered].

Renumbered to Tex. Educ. Code § 39.334 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.334).)

Sec. 39.185. Interim Report [Renumbered].

Renumbered to Tex. Educ. Code § 39.335 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), § 10, effective June 13, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.335).)

SUBCHAPTER G
DISTINCTION DESIGNATIONS

Sec. 39.201. Distinction Designations.

(a) Not later than August 8 of each year, the commissioner shall award distinction designations for outstanding performance as provided by this subchapter. A distinction designation awarded to a district or campus under this subchapter shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the performance ratings as provided by rules adopted under Section 39.054(a).

(b) A district or campus may not be awarded a distinction designation under this subchapter unless the district or campus has acceptable performance under Section 39.054.

(c) In addition to the condition prescribed by Subsection (b), an open-enrollment charter school may not be awarded a distinction designation under this subchapter if the charter school is evaluated under alternative education accountability procedures adopted by the commissioner.

(Enacted by Acts 2001, 77th Leg., ch. 914 (S.B. 218), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 662 (S.B. 1484), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 53(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 53(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.2011. Applicability to Charter Schools.

In this subchapter:

(1) a district includes an open-enrollment charter school that operates on more than one campus; and

(2) a campus includes an open-enrollment charter school campus.

(Enacted by Acts 2011, 82nd Leg., ch. 662 (S.B. 1484), § 2, effective June 17, 2011.)

Sec. 39.202. Academic Distinction Designation for Districts and Campuses.

The commissioner by rule shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness. The commissioner shall adopt criteria for the designation under this section, including:

(1) percentages of students who:

(A) performed satisfactorily, as determined under the college readiness performance standard under Section 39.0241, on assessment instruments required under Section 39.023(a), (b), (c), or (*l*), aggregated across grade levels by subject area; or

(B) met the standard for annual improvement, as determined by the agency under Section 39.034, on assessment instruments required under Section 39.023(a), (b), (c), or (*l*), aggregated across grade levels by subject area, for students who did not perform satisfactorily as described by Paragraph (A);

(2) percentages of:

(A) students who earned a nationally or internationally recognized business or industry certification or license;

(B) students who completed a coherent sequence of career and technical courses;

(C) students who completed a dual credit course or an articulated postsecondary course provided for local credit;

(D) students who achieved applicable College Readiness Benchmarks or the equivalent on the Preliminary Scholastic Assessment Test (PSAT), the Scholastic Assessment Test (SAT), the American College Test (ACT), or the ACT-Plan assessment program; and

(E) students who received a score on either an advanced placement test or an international baccalaureate examination to be awarded college credit; and

(3) other factors for determining sufficient student attainment of postsecondary readiness.

(Enacted by Acts 2001, 77th Leg., ch. 914 (S.B. 218), § 1, effective September 1, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 2, § 2.05, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 54(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 54(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.203. Campus Distinction Designations.

(a) The commissioner shall award a campus a distinction designation for outstanding performance in improvement in student achievement if the campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement as determined under Section 39.034.

(b) In addition to the distinction designation described by Subsection (a), the commissioner shall award a campus a distinction designation for outstanding performance in closing student achievement differentials if the campus demonstrates an ability to significantly diminish or eliminate performance differentials between student subpopulations and is ranked in the top 25 percent of campuses in this state under the performance criteria described by this subsection. The commissioner shall adopt rules related to the distinction designation under this subsection to ensure that a campus does not artificially diminish or eliminate performance differentials through inhibiting the achievement of the highest achieving student subpopulation.

(c) In addition to the distinction designations described by Subsections (a) and (b), a campus that satisfies the criteria developed under Section 39.204 shall be awarded a distinction designation by the commissioner for outstanding performance in aca-

demic achievement in English language arts, mathematics, science, or social studies.

(d) In addition to the distinction designations otherwise described by this section, the commissioner may award a distinction designation for outstanding performance in advanced middle or junior high school student achievement to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c).

(Enacted by Acts 2001, 77th Leg., ch. 914 (S.B. 218), § 1, effective September 1, 2001; am Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 307 (H.B. 2135), § 6, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 55(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 55(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.204. Campus Distinction Designation Criteria; Committees.

(a) The commissioner by rule shall establish:

(1) standards for considering campuses for distinction designations under Section 39.203(c); and

(2) methods for awarding distinction designations to campuses.

(b) In adopting rules under this section, the commissioner shall establish a separate committee to develop criteria for each distinction designation under Section 39.203(c).

(c) Each committee established under this section must include:

(1) individuals who practice as professionals in the content area relevant to the distinction designation, as applicable;

(2) individuals with subject matter expertise in the content area relevant to the distinction designation;

(3) educators with subject matter expertise in the content area relevant to the distinction designation; and

(4) community leaders, including leaders from the business community.

(d) For each committee, the governor, lieutenant governor, and speaker of the house of representatives may each appoint a person described by each subdivision of Subsection (c).

(e) In developing criteria for distinction designations under this section, each committee shall:

(1) identify a variety of indicators for measuring excellence; and

(2) consider categories for distinction designations, with criteria relevant to each category, based on:

(A) the level of a program, whether elementary school, middle or junior high school, or high school; and

(B) the student enrollment of a campus.

(Enacted by Acts 2001, 77th Leg., ch. 914 (S.B. 218), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.205. Software Standards [Renumbered].

Renumbered to Tex. Educ. Code § 39.086 by Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(6), effective September 1, 2011.

SUBCHAPTER H
ADDITIONAL REWARDS

Sec. 39.232. Excellence Exemptions.

(a) Except as provided by Subsection (b), a school campus or district that is rated exemplary under Subchapter G is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.

(b) A school campus or district is not exempt under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) requirements imposed by federal law or rule, including requirements for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) curriculum essential knowledge and skills under Section 28.002 or high school graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, E, and J;

(C) extracurricular activities under Section 33.081;

(D) health and safety under Chapter 38;

(E) purchasing under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Subsection (d) or Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

(J) rights and benefits of school employees;

(K) special education programs under Subchapter A, Chapter 29; or

(L) bilingual education programs under Subchapter B, Chapter 29.

(c) The agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 7.056.

(d) The commissioner may exempt an exemplary school campus under Subchapter G from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The commissioner shall review achievement levels annually. The exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

(Enacted by Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.112).)

Sec. 39.233. Recognition of High School Completion and Success and College Readiness Programs.

(a) The agency shall:

(1) develop standards for evaluating the success and cost-effectiveness of high school completion and success and college readiness programs implemented under Section 39.234;

(2) provide guidance for school districts and campuses in establishing and improving high school completion and success and college readiness programs implemented under Section 39.234; and

(3) develop standards for selecting and methods for recognizing school districts and campuses that offer exceptional high school completion and success and college readiness programs under Section 39.234.

(b) The commissioner may adopt rules for the administration of this section.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.06, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.113).)

Sec. 39.234. Use of High School Allotment.

(a) Except as provided by Subsection (b), a school district or campus must use funds allocated under Section 42.160 to:

(1) implement or administer a college readiness program that provides academic support and instruction to prepare underachieving students for entrance into an institution of higher education;

(2) implement or administer a program that encourages students to pursue advanced academic opportunities, including early college high school programs and dual credit, advanced placement, and international baccalaureate courses;

(3) implement or administer a program that provides opportunities for students to take academically rigorous course work, including four years of mathematics and four years of science at the high school level;

(4) implement or administer a program, including online course support and professional development, that aligns the curriculum for grades six through 12 with postsecondary curriculum and expectations; or

(5) implement or administer other high school completion and success initiatives in grades six through 12 approved by the commissioner.

(b) A school district may use funds allocated under Section 42.160 on any instructional program in grades six through 12 other than an athletic program if:

(1) the district's measure of progress toward college readiness is determined exceptional by a standard set by the commissioner; and

(2) the district's completion rates for grades nine through 12 exceed completion rate standards required by the commissioner to achieve a status of accredited under Section 39.051.

(b-1) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.06, effective September 1, 2009.]

(c) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(5), effective September 1, 2009.]

(d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.06, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.114); am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 42, 43, 105(a)(5), effective September 1, 2009.)

Sec. 39.235. Innovation Grant Initiative for Middle, Junior High, and High School Campuses.

(a) From funds appropriated for that purpose, the commissioner may establish a grant program under which grants are awarded to middle, junior high, and high school campuses and school districts to support:

(1) the implementation of innovative improvement programs that are based on the best available research regarding middle, junior high, or high school reform, dropout prevention, and pre-

paring students for postsecondary coursework or employment;

(2) enhancing education practices that have been demonstrated by significant evidence of effectiveness; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.407.

(b) Before awarding a grant under this section, the commissioner may require a campus or school district to:

(1) obtain local matching funds; or

(2) meet other conditions, including developing a personal graduation plan under Section 28.0212 or 28.02121, as applicable, for each student enrolled at the campus or in a district middle, junior high, or high school.

(c) The commissioner may:

(1) accept gifts, grants, or donations from a private foundation to implement a grant program under this section; and

(2) coordinate gifts, grants, or donations with other available funding to implement a grant program under this section.

(d) The commissioner may use funds appropriated under this section to support technical assistance services for school districts and open-enrollment charter schools to implement an improvement program under this section.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 13, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from § 39.115); am. Acts 2009, 81st Leg., ch. 443 (H.B. 2263), §§ 1, 2, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 56(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 56(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.236. Gifted and Talented Standards.

The commissioner shall adopt standards to evaluate school district programs for gifted and talented students to determine whether a district operates a program for gifted and talented students in accordance with:

(1) the Texas Performance Standards Project; or

(2) another program approved by the commissioner that meets the requirements of the state plan for the education of gifted and talented students under Section 29.123.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.251. Notice in Student Grade Report [Renumbered].

Renumbered to Tex. Educ. Code § 39.361 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2005, 79th Leg., ch. 1158 (H.B. 3297), § 1, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.361).)

Sec. 39.252. Notice on District Website [Renumbered].

Renumbered to Tex. Educ. Code § 39.362 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

(Enacted by Acts 2005, 79th Leg., ch. 1158 (H.B. 3297), § 2, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered as Sec. 39.362).)

SUBCHAPTER I
SUCCESSFUL SCHOOL AWARDS

Sec. 39.261. Creation of System.

The Texas Successful Schools Awards System is created to recognize and reward those schools and school districts that demonstrate progress or success in achieving the education goals of the state.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.091).)

Sec. 39.262. Types of Awards.

(a) The governor may present a financial award to the schools or districts that the commissioner determines have demonstrated the highest levels of sustained success or the greatest improvement in achieving the education goals. For each student in average daily attendance, each of those schools or districts is entitled to an amount set for the award for which the school or district is selected by the commissioner, subject to any limitation set by the commissioner on the total amount that may be awarded to a school or district.

(b) The governor may present proclamations or certificates to additional schools and districts determined to have met or exceeded the education goals.

(c) The commissioner may establish additional categories of awards and award amounts for a school or district determined to be successful under Subsection (a) or (b) that are contingent on the school's or district's involvement with paired, lower-performing schools.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.092).)

Sec. 39.263. Awards.

(a) The criteria that the commissioner shall use to select successful schools and districts must be related to the goals in Section 4.002 and must include consideration of performance on the student achievement indicators adopted under Section 39.053(c) and consideration of the distinction designation criteria prescribed by or developed under Subchapter G.

(b) For purposes of selecting schools and districts under Section 39.262(a), each school's performance shall be compared to state standards and to its previous performance.

(c) The commissioner shall select annually schools and districts qualified to receive successful school awards for their performance and report the selections to the governor and the State Board of Education.

(d) The agency shall notify each school district of the manner in which the district or a school in the district may qualify for a successful school award.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.093).)

Sec. 39.264. Use of Awards.

(a) In determining the use of a monetary award received under this subchapter, a school or district shall give priority to academic enhancement purposes. The award may not be used for any purpose related to athletics, and it may not be used to substitute for or replace funds already in the regular budget for a school or district.

(b) The campus-level committee established under Section 11.253 shall determine the use of the funds awarded to a school under this subchapter. The professional staff of the district shall determine the use of the funds awarded to the school district under this subchapter.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.094).)

Sec. 39.265. Funding.

The award system may be funded by donations, grants, or legislative appropriations. The commissioner may solicit and receive grants and donations for the purpose of making awards under this subchapter. A small portion of the award funds may be used by the commissioner to pay for the costs associated with sponsoring a ceremony to recognize or present awards to schools or districts under this subchapter. The donations, grants, or legislative appropriations shall be accounted for and distributed by the agency. The awards are subject to audit requirements established by the State Board of Education.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.095).)

Sec. 39.266. Confidentiality.

All information and reports received by the commissioner under this subchapter from schools or school districts deemed confidential under Chapter 552, Government Code, are confidential and may not be disclosed in any public or private proceeding.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.096).)

SUBCHAPTER J
PARENT AND EDUCATOR REPORTS

Sec. 39.301. Additional Performance Indicators: Reporting.

(a) In addition to the indicators adopted under Section 39.053, the commissioner shall adopt indicators of the quality of learning for the purpose of preparing reports under this chapter. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.

(b) Performance on the indicators adopted under this section shall be evaluated in the same manner provided for evaluation of the student achievement indicators under Section 39.053(c).

(c) Indicators for reporting purposes must include:

(1) the percentage of graduating students who meet the course requirements established by State Board of Education rule for:

(A) the foundation high school program;

(B) the distinguished level of achievement under the foundation high school program; and

(C) each endorsement described by Section 28.025(c-1);

(2) the results of the SAT, ACT, articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;

(3) for students who have failed to perform satisfactorily, under each performance standard

under Section 39.0241, on an assessment instrument required under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(4) for each campus, the number of students, disaggregated by major student subpopulations, that take courses under the foundation high school program and take additional courses to earn an endorsement under Section 28.025(c-1), disaggregated by type of endorsement;

(5) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessment instruments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

(6) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(7) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) the percentage of students who satisfy the college readiness measure;

(9) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052;

(10) the percentage of students who are not educationally disadvantaged;

(11) the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

(12) the percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

(d) Performance on the indicators described by Section 39.053(c) and Subsections (c)(3), (4), and (9) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.

(e) Section 39.055 applies in evaluating indicators described by Subsection (c).

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 57(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 57(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.302. Report to District: Comparisons for Annual Performance Assessment.

(a) The agency shall report to each school district the comparisons of student performance made under Section 39.034.

(b) To the extent practicable, the agency shall combine the report of comparisons with the report of the student's performance on assessment instruments under Section 39.023.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.303. Report to Parents.

(a) The school district a student attends shall provide a record of the comparisons made under Section 39.034 and provided to the district under Section 39.302 in a written notice to the student's parent or other person standing in parental relationship.

(b) For a student who failed to perform satisfactorily as determined under either performance standard under Section 39.0241 on an assessment instrument administered under Section 39.023(a), (c), or (*l*), the school district shall include in the notice specific information relating to access to educational resources at the appropriate assessment instrument content level, including assessment instrument questions and answers released under Section 39.023(e).

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 63, effective July 19, 2011.)

Sec. 39.304. Teacher Report Card.

(a) Each school district shall prepare a report of the comparisons made under Section 39.034 and provided to the district under Section 39.302 and provide the report at the beginning of the school year to:

(1) each teacher for all students, including incoming students, who were assessed on an assessment instrument under Section 39.023; and

(2) all students under Subdivision (1) who were provided instruction by that teacher in the subject for which the assessment instrument was administered under Section 39.023.

(b) The report shall indicate whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement under Section 39.034.

(Enacted by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.)

Sec. 39.305. Campus Report Card.

(a) Each school year, the agency shall prepare and distribute to each school district a report card for each campus. The campus report cards must be based on the most current data available disaggregated by student groups. Campus performance must be compared to previous campus and district performance, current district performance, and state established standards.

(b) The report card shall include the following information:

(1) where applicable, the student achievement indicators described by Section 39.053(c) and the reporting indicators described by Sections 39.301(c)(1) through (5);

(2) average class size by grade level and subject;

(3) the administrative and instructional costs per student, computed in a manner consistent with Section 44.0071; and

(4) the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

(c) The commissioner shall adopt rules requiring dissemination of the information required under Subsection (b)(4) and appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 396, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1514, effective June 19, 1999; Acts 2001, 77th Leg., ch. 1420, effective September 1, 2001; Acts 2003, 78th Leg., ch. 1269, effective September 1, 2003; Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 3.12, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.052).)

Sec. 39.306. Performance Report.

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) information indicating the district's accreditation status and identifying each district campus awarded a distinction designation under Subchapter G or considered an unacceptable campus under Subchapter E;

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;

(6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.); and

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.

(b) Supplemental information to be included in the reports shall be determined by the board of trustees. Performance information in the annual reports on the indicators described by Sections 39.053 and 39.301 and descriptive information required by this section shall be provided by the agency.

(c) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notification must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. After the hearing the report shall be widely disseminated within

the district in a manner to be determined under rules adopted by the commissioner.

(d) The report must also include a comparison provided by the agency of:

(1) the performance of each campus to its previous performance and to state-established standards; and

(2) the performance of each district to its previous performance and to state-established standards.

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) the number of students placed in a disciplinary alternative education program under Chapter 37.

(f) The commissioner by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(g) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents. (Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 510, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1417, effective June 19, 1999; Acts 2001, 77th Leg., ch. 725, effective September 1, 2001; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2003, 78th Leg., ch. 1055, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.053).)

Sec. 39.307. Uses of Performance Report.

The information required to be reported under Section 39.306 shall be:

(1) the subject of public hearings or meetings required under Sections 11.252, 11.253, and 39.306;

(2) a primary consideration in school district and campus planning; and

(3) a primary consideration of:

(A) the State Board of Education in the evaluation of the performance of the commissioner;

(B) the commissioner in the evaluation of the performance of the directors of the regional education service centers;

(C) the board of trustees of a school district in the evaluation of the performance of the superintendent of the district; and

(D) the superintendent in the evaluation of the performance of the district's campus principals.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.054).)

Sec. 39.308. Annual Audit of Dropout Records; Report.

(a) The commissioner shall develop a process for auditing school district dropout records electronically. The commissioner shall also develop a system and standards for review of the audit or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, require on-site monitoring of dropout records.

(b) If the electronic audit of a school district's dropout records indicates that a district is not at high risk of having inaccurate dropout records, the district may not be subject to on-site monitoring under this subsection.

(c) If the risk-based system indicates that a school district is at high risk of having inaccurate dropout records, the district is entitled to an opportunity to respond to the commissioner's determination before on-site monitoring may be conducted. The district must respond not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having inaccurate dropout records or if the district does not respond in a timely manner, the commissioner shall order agency staff to conduct on-site monitoring of the district's dropout records.

(d) The commissioner shall notify the board of trustees of a school district of any objection the commissioner has to the district's dropout data, any violation of sound accounting practices or of a law or rule revealed by the data, or any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, dis-

trict attorney, or criminal district attorney, as appropriate, and the attorney general.

(e) The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of district dropout data.

(Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2003, 78th Leg., ch. 201, effective September 1, 2003; Acts 2003, 78th Leg., ch. 903, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.055).)

Sec. 39.309. Texas School Accountability Dashboard.

(a) The agency shall develop and maintain an Internet website, separate from the agency's Internet website, to be known as the Texas School Accountability Dashboard for the public to access school district and campus accountability information.

(b) The commissioner shall adopt, for use on the Texas School Accountability Dashboard, a performance index in each of the following areas:

(1) student achievement;

(2) student progress;

(3) closing performance gaps; and

(4) postsecondary readiness.

(c) The Texas School Accountability Dashboard developed under Subsection (a) must include:

(1) performance information for each school district and campus in areas specified by Subsection (b) and must allow for comparison between districts and campuses in each of the areas;

(2) a comparison of the number of students enrolled in each school district, including:

(A) the percentage of students of limited English proficiency, as defined by Section 29.052;

(B) the percentage of students who are unschooled asylees or refugees, as defined by Section 39.027(a-1);

(C) the percentage of students who are educationally disadvantaged; and

(D) the percentage of students with disabilities;

(3) a comparison of performance information for each district and campus disaggregated by race, ethnicity, and populations served by special programs, including special education, bilingual education, and special language programs; and

(4) a comparison of performance information by subject area.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 58, effective June 10, 2013.)

SUBCHAPTER K
REPORTS BY TEXAS EDUCATION AGENCY

Sec. 39.331. General Requirements.

(a) Each report required by this subchapter must:

(1) unless otherwise specified, contain summary information and analysis only, with an indication that the agency will provide the data underlying the report on request;

(2) specify a person at the agency who may be contacted for additional information regarding the report and provide the person's telephone number; and

(3) identify other sources of related information, indicating the level of detail and format of information that may be obtained, including the availability of any information on the Texas Education Network.

(b) Each component of a report required by this subchapter must:

(1) identify the substantive goal underlying the information required to be reported;

(2) analyze the progress made and longitudinal trends in achieving the underlying substantive goal;

(3) offer recommendations for improved progress in achieving the underlying substantive goal; and

(4) identify the relationship of the information required to be reported to state education goals.

(c) Unless otherwise provided, each report required by this subchapter is due not later than December 1 of each even-numbered year.

(d) Subsections (a) and (b) apply to any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature.

(e) Unless otherwise provided by law, any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature may be combined, at the discretion of the commissioner, with a report required by this subchapter.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.181).)

Sec. 39.332. Comprehensive Biennial Report.

(a) Not later than December 1 of each even-numbered year, the agency shall prepare and deliver

to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the two preceding school years and containing the information described by Subsection (b).

(b) (1) The report must contain an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002.

(2) The report must contain an evaluation of the status of education in the state as reflected by:

(A) the student achievement indicators described by Section 39.053; and

(B) the reporting indicators described by Section 39.301.

(3) The report must contain a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.

(4) The report must contain a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.

(5) The report must contain a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.

(6) The report must contain an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023.

(7) The report must contain a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12.

(8) The report must contain a statement of:

(A) the completion rate of students who enter grade level 9 and graduate not more than four years later;

(B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;

(C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;

(D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and

(E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D).

(9) The report must contain a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate.

(10) The report must contain a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less.

(11) The report must contain a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

(A) the number and percentage of students retained; and

(B) the performance of retained students on assessment instruments required under Section 39.023(a).

(12) The report must contain information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary alternative education program established under Section 37.008;

(B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008.

(13) The report must contain a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions.

(14) The report must contain an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002.

(15) The report must contain a description of all funds received by and each activity and expenditure of the agency.

(16) The report must contain a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071.

(17) The report must contain a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.232.

(18) The report must contain a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements.

(19) The report must contain a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions.

(20) The report must contain a comparison of the performance of open-enrollment charter schools and school districts on the student achievement indicators described by Section 39.053(c), the reporting indicators described by Section 39.301(c), and the accountability measures adopted under Section 39.053(i), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as described by Section 29.081(d), with the performance of school districts.

(21) The report must contain a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district.

(22) The report must contain a summary compilation of overall student performance under the assessment system developed to evaluate the longitudinal academic progress as required by Section 39.027(e), disaggregated by bilingual education or special language program instructional model, if any.

(23) The report must contain an evaluation of the availability of endorsements under Section 28.025(c-1), including the following information for each school district:

(A) the endorsements under Section 28.025(c-1) for which the district offers all courses for curriculum requirements as determined by board rule; and

(B) the district's economic, geographic, and demographic information, as determined by the commissioner.

(24) The report must contain any additional information considered important by the commissioner or the State Board of Education.

(c) In reporting the information required by Subsection (b)(3) or (4), the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29.

(d) In reporting the information required by Subsections (b)(3), (5), and (7), the agency shall separately aggregate the longitudinal performance data of all students identified as students of limited English proficiency, as defined by Section 29.052, or former students of limited English proficiency, disaggregated by bilingual education or special language program instructional model, if any, in which the students are or were enrolled.

(e) Each report must contain the most recent data available.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1999, 76th Leg., ch. 1417, effective June 19, 1999; Acts 2001, 77th Leg., ch. 725, effective June 13, 2001; Acts 2001, 77th Leg., ch. 834, effective September 1, 2001; Acts 2003, 78th Leg., ch. 1269, effective September 1, 2003; Acts 2005, 79th Leg., ch. 784 (S.B. 42), § 8, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 6, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.182); am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 59(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), §§ 8, 9, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 59(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 39.333. Regional and District Level Report.

As part of the comprehensive biennial report under Section 39.332, the agency shall submit a regional and district level report covering the preceding two school years and containing:

(1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including:

(A) the number of campuses and classes at each campus granted an exception from Section 25.112; and

(B) for each campus granted an exception from Section 25.112, a statement of whether the campus has been awarded a distinction designation under Subchapter G or has been identified as an unacceptable campus under Subchapter E;

(2) a summary of the exemptions and waivers granted to campuses and school districts under Section 7.056 or 39.232 and a review of the effectiveness of each campus or district following deregulation;

(3) an evaluation of the performance of the system of regional education service centers based on the indicators adopted under Section 8.101 and client satisfaction with services provided under Subchapter B, Chapter 8;

(4) an evaluation of accelerated instruction programs offered under Section 28.006, including an assessment of the quality of such programs and the performance of students enrolled in such programs; and

(5) the number of classes at each campus that are currently being taught by individuals who are not certified in the content areas of their respective classes.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 1997, 75th Leg., ch. 268, effective May 26, 1997; Acts 1999, 76th Leg., ch. 396, effective September 1, 1999; Acts 2001, 77th Leg., ch. 889, effective June 14, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.183); am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 10, effective September 1, 2013.)

Sec. 39.334. Technology Report.

The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a technology report covering the preceding two school years and containing information on the status of the implementation of and revisions to the long-range technology plan required by Section 32.001, including the equity of the distribution and use of technology in public schools.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.184).)

Sec. 39.335. Interim Report [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(10), effective June 17, 2011.

(Acts 1995, 74th Leg., ch. 260, effective May 30, 1995; Acts 2001, 77th Leg., ch. 725, effective June 13, 2001; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.185).)

Sec. 39.351. Definition [Renumbered].

Renumbered to Tex. Educ. Code § 39.401 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.352. High School Completion and Success Initiative Council [Renumbered].

Renumbered to Tex. Educ. Code § 39.402 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.353. Terms [Renumbered].

Renumbered to Tex. Educ. Code § 39.403 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.354. Presiding Officer [Renumbered].

Renumbered to Tex. Educ. Code § 39.404 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.355. Compensation and Reimbursement [Renumbered].

Renumbered to Tex. Educ. Code § 39.405 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.356. Council Staff and Funding [Renumbered].

Renumbered to Tex. Educ. Code § 39.406 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.357. Strategic Plan [Renumbered].

Renumbered to Tex. Educ. Code § 39.407 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.358. Eligibility Criteria for Certain Grant Programs [Renumbered].

Renumbered to Tex. Educ. Code § 39.408 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.359. Private Foundation Partnerships [Renumbered].

Renumbered to Tex. Educ. Code § 39.409 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.360. Grant Program Evaluation [Renumbered].

Renumbered to Tex. Educ. Code § 39.410 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

SUBCHAPTER L
NOTICE OF PERFORMANCE

Sec. 39.361. Notice in Student Grade Report.

The first written notice of a student's performance that a school district gives during a school year as required by Section 28.022(a)(2) must include:

(1) a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Subchapter G or has been identified as an unacceptable campus under Subchapter E; and

(2) an explanation of the significance of the information provided under Subdivision (1).

(Acts 2005, 79th Leg., ch. 1158 (H.B. 3297), § 1, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.251).)

Sec. 39.362. Notice on District Website.

Not later than the 10th day after the first day of instruction of each school year, a school district that maintains an Internet website shall make the following information available to the public on the website:

(1) the information contained in the most recent campus report card for each campus in the district under Section 39.305;

(2) the information contained in the most recent performance report for the district under Section 39.306;

(3) the most recent accreditation status and performance rating of the district under Sections 39.052 and 39.054; and

(4) a definition and explanation of each accreditation status under Section 39.051, based on commissioner rule adopted under that section.

(Acts 2005, 79th Leg., ch. 1158 (H.B. 3297), § 1, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.252).)

Sec. 39.363. Notice on Agency Website.

Not later than October 1 of each year, the agency shall make the following information available to the public on the agency's Internet website:

(1) the letter performance rating assigned to each school district and campus under Section 39.054 and each distinction designation awarded to a school district or campus under Subchapter G;

(2) the performance rating assigned to a school district and each campus in the district by the district under Section 39.0545; and

(3) the financial accountability rating assigned to each school district and open-enrollment charter school under Section 39.082.

(Enacted by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 60(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 60(b) provides: "This section applies beginning with the 2013-2014 school year."

Sec. 39.364. Private Funding [Renumbered].

Renumbered to Tex. Educ. Code § 39.414 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.365. Reports [Renumbered].

Renumbered to Tex. Educ. Code § 39.415 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

Sec. 39.366. Rules [Renumbered].

Renumbered to Tex. Educ. Code § 39.416 by Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009.

SUBCHAPTER M
HIGH SCHOOL COMPLETION AND SUCCESS INITIATIVE

Sec. 39.401. Definition.

In this subchapter, "council" means the High School Completion and Success Initiative Council.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.351).)

Sec. 39.402. High School Completion and Success Initiative Council.

(a) The High School Completion and Success Initiative Council is established to identify strategic priorities for and make recommendations to improve the effectiveness, coordination, and alignment of high school completion and college and workforce readiness efforts.

(b) The council is composed of:

(1) the commissioner of education;

(2) the commissioner of higher education; and

(3) seven members appointed by the commissioner of education.

(c) In making appointments required by Subsection (b)(3), the commissioner of education shall appoint:

(1) three members from a list of nominations provided by the governor;

(2) two members from a list of nominations provided by the lieutenant governor; and

(3) two members from a list of nominations provided by the speaker of the house of representatives.

(d) In making nominations under Subsection (c), the governor, lieutenant governor, and speaker of the house of representatives shall nominate persons who have distinguished experience in:

(1) developing and implementing high school reform strategies; and

(2) promoting college and workforce readiness.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.352).)

Sec. 39.403. Terms.

Members of the council appointed under Section 39.402(b)(3) serve terms of two years and may be reappointed for additional terms.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.353).)

Sec. 39.404. Presiding Officer.

The commissioner of education serves as the presiding officer of the council.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.354).)

Sec. 39.405. Compensation and Reimbursement.

A member of the council is not entitled to compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.355).)

Sec. 39.406. Council Staff and Funding.

(a) Except as otherwise provided, staff members of the agency, with the assistance of the Texas Higher Education Coordinating Board, shall provide administrative support for the council.

(b) Funding for the administrative and operational expenses of the council shall be provided by appropriation to the agency for that purpose and by gifts, grants, and donations solicited and accepted by the agency for that purpose.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.356).)

Sec. 39.407. Strategic Plan.

(a) The council shall adopt a strategic plan under this subchapter to:

(1) specify strategies to identify, support, and expand programs to improve high school completion rates and college and workforce readiness;

(2) establish specific goals with which to measure the success of the strategies identified under Subdivision (1) in improving high school completion rates and college and workforce readiness;

(3) identify strategies for alignment and coordination of federal and other funding sources that may be pursued for high school reform, dropout prevention, and preparation of students for postsecondary coursework or employment; and

(4) identify key objectives for appropriate research and program evaluation conducted as provided by this subchapter.

(b) The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer the strategic plan adopted by the council under this section.

(c) The commissioner of education or the commissioner of higher education may not, in a manner inconsistent with the strategic plan, spend money, award a grant, or enter into a contract in connection with a program relating to high school success and completion.

(d) [Expired pursuant to Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective March 15, 2008.]

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.357).)

Sec. 39.408. Eligibility Criteria for Certain Grant Programs.

A school district or campus is eligible to participate in programs under Sections 21.4541, 29.095, 29.096, 29.097, and 29.098 if the district or campus exhibited during each of the three preceding school years characteristics that strongly correlate with high dropout rates.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.358).)

Sec. 39.409. Private Foundation Partnerships.

(a) The commissioner of education or the commissioner of higher education, as appropriate, and the council may coordinate with private foundations that have made a substantial investment in the improvement of high schools in this state to maximize the impact of public and private investments.

(b) A private foundation is not required to obtain the approval of the appropriate commissioner or the council under Subsection (a) before allocating resources to a school in this state.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.359).)

Sec. 39.410. Grant Program Evaluation.

(a) The commissioner of education shall annually set aside not more than five percent of the funds appropriated for high school completion and success to contract for the evaluation of programs supported by grants approved under this subchapter. In awarding a contract under this subsection, the commissioner shall consider centers for education research established under Section 1.005.

(b) A person who receives a grant approved under this subchapter must consent to an evaluation under this section as a condition of receiving the grant.

(c) The commissioner shall ensure that an evaluation conducted under this section includes an assessment of whether student achievement has improved. Results of the evaluation shall be provided through the online clearinghouse of information relating to the best practices of campuses and school districts established under Section 7.009.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.360).)

Sec. 39.411. Council Recommendations.

(a) Based on the strategic plan adopted under this subchapter, the council shall make recommendations to the commissioner of education or the commissioner of higher education, as applicable, for the use of federal and state funds appropriated or received for high school reform, college readiness, and dropout prevention, including grants awarded under Sections 21.4511, 21.4541, 29.095—29.098, 29.917, 29.919, and 39.235.

(b) The council shall include recommendations under this section for:

(1) key elements of program design;

(2) criteria for awarding grants and evaluating programs;

(3) program funding priorities; and

(4) program evaluation as provided by this subchapter.

(c) The commissioner of education or the commissioner of higher education, as applicable, shall consider the council's recommendations and based on those recommendations may award grants to school districts, open-enrollment charter schools, institutions of higher education, regional education service centers, and nonprofit organizations to meet the goals of the council's strategic plan.

(d) The commissioner of education or the commissioner of higher education, as applicable:

(1) is not required under this section to allocate funds to a program or initiative recommended by the council; and

(2) may not initiate a program funded under this section that does not conform to the recommended use of funds as provided under Subsections (a) and (b).

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.361).)

Sec. 39.412. Funding Provided to School Districts.

From funds appropriated, the commissioner of education may provide funding to school districts to permit a school district to obtain technical assistance in preparing a grant proposal for a grant program administered under this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009,

81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.362).)

Sec. 39.413. Funding for Certain Programs.

(a) From funds appropriated, the Texas Higher Education Coordinating Board shall allocate $8.75 million each year to establish mathematics, science, and technology teacher preparation academies under Section 61.0766, provide funding to the commissioner of education to implement and administer the program under Section 29.098, and award grants under Section 61.0762(a)(3).

(b) The Texas Higher Education Coordinating Board shall establish mathematics, science, and technology teacher preparation academies under Section 61.0766, provide funding to the commissioner of education to implement and administer the program under Section 29.098, and award grants under Section 61.0762(a)(3) in a manner consistent with the goals of this subchapter and the goals in "Closing the Gaps," the state's master plan for higher education.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.363); am. Acts 2009, 81st Leg., ch. 851 (S.B. 2258), § 3, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 852 (S.B. 2262), § 2, effective June 19, 2009.)

Sec. 39.414. Private Funding.

The commissioner of education or the commissioner of higher education, as appropriate, may accept gifts, grants, or donations to fund a grant administered under this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.364).)

Sec. 39.415. Reports.

(a) Not later than December 1 of each even-numbered year, the agency shall prepare and deliver a report to the legislature that recommends any statutory changes the council considers appropriate to promote high school completion and college and workforce readiness.

(b) Not later than March 1 and September 1 of each year, the commissioner of education shall prepare and deliver a progress report to the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education, the Legislative Budget Board, and the Governor's Office of Policy and Planning on:

(1) the implementation of Sections 7.031, 21.4511, 21.4541, 28.008(d-1), 28.0212(d), 29.095—29.098, 29.911, 29.917—29.919, and 39.235 and this subchapter;

(2) the programs supported by grants approved under this subchapter; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.407.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.365); am. Acts 2009, 81st Leg., ch. 852 (S.B. 2262), § 3, effective June 19, 2009.)

Sec. 39.416. Rules.

The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer this subchapter and any programs under the authority of the commissioner of education or the commissioner of higher education and the council under this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 14, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 59, effective June 19, 2009 (renumbered from Sec. 39.366).)

SUBTITLE I
SCHOOL FINANCE AND FISCAL MANAGEMENT

CHAPTER 41
EQUALIZED WEALTH LEVEL

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 41.001. Definitions.

In this chapter:

(1) "Equalized wealth level" means the wealth per student provided by Section 41.002.

(2) "Wealth per student" means the taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by the number of students in weighted average daily attendance.

(3) "Weighted average daily attendance" has the meaning assigned by Section 42.302.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.01, effective September 1, 1999.)

Sec. 41.0011. Computation of Wealth Per Student for 1997-1998 School Year [Expired].

Expired pursuant to Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.01, effective September 1, 1998.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.01, effective September 1, 1997.)

Sec. 41.002. Equalized Wealth Level.

(a) A school district may not have a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101(a) or (b), for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the

district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) $319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

(a-1) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.01, effective September 1, 2012.]

(a-2) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.01, effective September 1, 2008.]

(b) For purposes of this chapter, the commissioner shall adjust, in accordance with Section 42.2521, the taxable values of a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values.

(c) [Repealed by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(a), effective September 1, 1999.]

(d) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1996.]

(e) Notwithstanding Subsection (a), and except as provided by Subsection (g), in accordance with a determination of the commissioner, the wealth per student that a school district may have after exercising an option under Section 41.003(2) or (3) may not be less than the amount needed to maintain state and local revenue in an amount equal to state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year less the district's current year distribution per weighted student from the available school fund, other than amounts distributed under Chapter 31, if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or $1.50 on the $100 valuation of taxable property.

(f) For purposes of Subsection (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311, Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100.

(g) The wealth per student that a district may have under Subsection (e) is adjusted as follows:

AWPS = WPS X (((EWL/280,000 - 1) X DTR/1.5) + 1)

where:

"AWPS" is the district's wealth per student;

"WPS" is the district's wealth per student determined under Subsection (e);

"EWL" is the equalized wealth level; and

"DTR" is the district's adopted maintenance and operations tax rate for the current school year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 7, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.02, art. 3, § 3.01(a), effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1187, art. 2, §§ 2.02, 2.03, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 44, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.06, effective September 28, 2011.)

Sec. 41.0021. Wealth Per Student in Certain Districts Not Serving All Grades [Expired].

Expired pursuant to Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 2, effective September 1, 2004 and Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 28, effective September 1, 2004.

(Enacted by Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 28(a), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 328 (S.B. 206), § 1.)

Sec. 41.003. Options to Achieve Equalized Wealth Level.

A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

(1) consolidation with another district as provided by Subchapter B;

(2) detachment of territory as provided by Subchapter C;

(3) purchase of average daily attendance credit as provided by Subchapter D;

(4) education of nonresident students as provided by Subchapter E; or

(5) tax base consolidation with another district as provided by Subchapter F.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.03, effective September 1, 1999.)

Sec. 41.0031. Inclusion of Attendance Credits and Nonresidents in Weighted Average Daily Attendance.

In determining whether a school district has a wealth per student less than or equal to the equalized wealth level, the commissioner shall use:

(1) the district's final weighted average daily attendance; and

(2) the number of attendance credits a district purchases under Subchapter D or the number of nonresident students a district educates under Subchapter E for a school year.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.04, effective September 1, 1999.)

Sec. 41.004. Annual Review of Property Wealth.

(a) Not later than July 15 of each year, using the estimate of enrollment under Section 42.254, the commissioner shall review the wealth per student of school districts in the state and shall notify:

(1) each district with wealth per student exceeding the equalized wealth level;

(2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and

(3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

(b) If, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not successfully exercised one or more options under Section 41.003 that reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner shall order the detachment of property from that district as provided by Subchapter G. If that detachment will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner may not detach property under Subchapter G but shall order the consolidation of the district with one or more other districts as provided by Subchapter H. An agreement under Section 41.003(1) or (2) must be executed not later than September 1 immediately following the notice under Subsection (a). An election for an option under Section 41.003(3), (4), or (5) must be ordered before September 1 immediately following the notice under Subsection (a).

(c) A district notified under Subsection (a) may not adopt a tax rate for the tax year in which the district receives the notice until the commissioner certifies that the district has achieved the equalized wealth level.

(d) A detachment and annexation or consolidation under this chapter:

(1) is effective for Foundation School Program funding purposes for the school year that begins in the calendar year in which the detachment and annexation or consolidation is agreed to or ordered; and

(2) applies to the ad valorem taxation of property beginning with the tax year in which the agreement or order is effective.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.05, effective September 1, 1999.)

Sec. 41.0041. Effect of State Aid.

(a) Notwithstanding any other provision of this chapter, if a school district's wealth per student exceeds the equalized wealth level for the first time in the 2006-2007 or a later school year, the commissioner may consider the district to have reduced its wealth per student to the equalized wealth level for any school year as provided by this section.

(b) When the commissioner initially identifies a school district under Section 41.004 as having a wealth per student for a school year that exceeds the equalized wealth level, the commissioner shall estimate:

(1) the amount of state revenue to which the district is entitled under Chapter 42 for that school year; and

(2) the cost to the district to purchase attendance credits under Subchapter D in an amount sufficient to reduce the district's wealth per student to the equalized wealth level for that school year.

(c) If the commissioner determines that the amount described by Subsection (b)(1) exceeds the amount described by Subsection (b)(2), the commissioner shall notify the district of the commissioner's determination. In lieu of exercising an option described by Section 41.003, the district's board of trustees may authorize the commissioner to withhold from the state revenue to which the district is entitled under Chapter 42 an amount equal to the amount described by Subsection (b)(2).

(d) In calculating the amount of state revenue to be withheld from a school district under this section, the commissioner shall calculate the cost for the district to reduce the district's wealth per student to the equalized wealth level using the final attendance and tax rate data for the school year and shall award the district any available credit or discount under Subchapter D as if the district had exercised the option under Section 41.003(3) in a timely manner. If the final amount calculated for the cost for the district to reduce the district's wealth per student to the equalized wealth level for a school year exceeds

the amount of state revenue to which the district is entitled under Chapter 42 for that year:

(1) the commissioner shall:

(A) withhold the entire amount of state revenue to which the district is entitled under Chapter 42 for that year; and

(B) withhold the additional amount of the cost for the district to reduce the district's wealth per student to the equalized wealth level for that year from the state revenue to which the district is entitled under Chapter 42 for a subsequent school year, or if the additional amount exceeds the amount of state revenue to which the district is entitled, add the difference to the cost of the attendance credits that the district must purchase in the subsequent year; and

(2) the district is not required to take any further action to reduce its wealth per student for that year.

(e) An action by the board of trustees of a school district authorizing the commissioner to withhold state revenue from the district under this section is valid without voter authorization.

(Enacted by Acts 2007, 80th Leg., ch. 335 (H.B. 3226), § 1s, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 1370 (S.B. 1658), §§ 1, 2, effective September 1, 2013.)

Sec. 41.005. Comptroller and Appraisal District Cooperation.

The chief appraiser of each appraisal district and the comptroller shall cooperate with the commissioner and school districts in implementing this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.006. Rules.

(a) The commissioner may adopt rules necessary for the implementation of this chapter. The rules may provide for the commissioner to make necessary adjustments to the provisions of Chapter 42, including providing for the commissioner to make an adjustment in the funding element established by Section 42.302, at the earliest date practicable, to the amount the commissioner believes, taking into consideration options exercised by school districts under this chapter and estimates of student enrollments, will match appropriation levels.

(b) As necessary for the effective and efficient administration of this chapter, the commissioner may modify effective dates and time periods for actions described by this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 8, effective September 1, 1997.)

Sec. 41.007. Commissioner to Approve Subsequent Boundary Changes.

A school district that is involved in an action under this chapter that results in boundary changes to the district or in the consolidation of tax bases is subject to consolidation, detachment, or annexation under Chapter 13 only if the commissioner certifies that the change under Chapter 13 will not result in a district with a wealth per student that exceeds the equalized wealth level.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.008. Homestead Exemptions.

(a) The governing board of a school district that results from consolidation under this chapter, including a consolidated taxing district under Subchapter F, for the tax year in which the consolidation occurs may determine whether to adopt a homestead exemption provided by Section 11.13, Tax Code, and may set the amount of the exemption, if adopted, at any time before the school district adopts a tax rate for that tax year. This section applies only to an exemption that the governing board of a school district is authorized to adopt or change in amount under Section 11.13, Tax Code.

(b) This section prevails over any inconsistent provision of Section 11.13, Tax Code, or other law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.009. Tax Abatements.

(a) A tax abatement agreement executed by a school district that is involved in consolidation or in detachment and annexation of territory under this chapter is not affected and applies to the taxation of the property covered by the agreement as if executed by the district within which the property is included.

(b) The commissioner shall determine the wealth per student of a school district under this chapter as if any tax abatement agreement executed by a school district on or after May 31, 1993, had not been executed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.010. Tax Increment Obligations.

The payment of tax increments under Chapter 311, Tax Code, is not affected by the consolidation of territory or tax bases or by annexation under this chapter. In each tax year a school district paying a tax increment from taxes on property over which the

district has assumed taxing power is entitled to retain the same percentage of the tax increment from that property that the district in which the property was located before the consolidation or annexation could have retained for the respective tax year.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.011. Contingency.

(a) If any of the options described by Section 41.003 as applied to a school district are held invalid by a final decision of a court of competent jurisdiction, a school district is entitled to exercise any of the remaining valid options in accordance with a schedule approved by the commissioner.

(b) If a final order of a court of competent jurisdiction should hold each of the options provided by Section 41.003 invalid, the commissioner shall act under Subchapter G or H to achieve the equalized wealth level only after notice and hearing is afforded to each school district affected by the order. The commissioner shall adopt a plan that least disrupts the affected school districts. If because the exigency to adopt a plan prevents the commissioner from giving a reasonable time for notice and hearing, the commissioner shall timely give notice to and hold a hearing for the affected school districts, but in no event less than 30 days from time of notice to the date of hearing.

(c) If a final order of a court of competent jurisdiction should hold an option provided by Section 41.003 invalid and order a refund to a district of any amounts paid by a district choosing that option, the amount shall be refunded but held in reserve and not expended by the district until released by order of the commissioner. The commissioner shall order the release immediately on the commissioner's determination that, through one of the means provided by law, the district has achieved the equalized wealth level. The amount released shall be deducted from any state aid payable to the district according to a schedule adopted by the commissioner.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.012. Date of Elections.

An election under this chapter for voter approval of an agreement entered by the board of trustees shall be held on a Tuesday or Saturday not more than 45 days after the date of the agreement. Section 41.001, Election Code, does not apply to the election.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.013. Procedure.

(a) Except as provided by Subchapter G, a decision of the commissioner under this chapter is appealable under Section 7.057.

(b) Any order of the commissioner issued under this chapter shall be given immediate effect and may not be stayed or enjoined pending any appeal.

(c) Chapter 2001, Government Code, does not apply to a decision of the commissioner under this chapter.

(d) On the request of the commissioner, the secretary of state shall publish any rules adopted under this chapter in the Texas Register and the Texas Administrative Code.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER B
CONSOLIDATION BY AGREEMENT

Sec. 41.031. Agreement.

The governing boards of any two or more school districts may consolidate the districts by agreement in accordance with this subchapter to establish a consolidated district with a wealth per student equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner certifies that the consolidated district, as a result of actions taken under this chapter, will have a wealth per student equal to or less than the equalized wealth level.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.032. Governing Law.

Except to the extent modified by the terms of the agreement, the consolidated district is governed by the applicable provisions of Subchapter D, Chapter 13, other than a provision requiring consolidating districts to be contiguous. The agreement may not be inconsistent with the requirements of this subchapter.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.033. Governance Plan.

(a) The agreement among the consolidating districts may include a governance plan designed to preserve community-based and site-based decision making within the consolidated district, including the delegation of specific powers of the governing board of the district other than the power to levy taxes, including a provision authorized by Section 13.158(b).

(b) The governance plan may provide for a transitional board of trustees during the first year after consolidation, but beginning with the next year the board of trustees must be elected from within the boundaries of the consolidated district. If the consolidating districts elect trustees from single-member districts, the consolidated district must adopt a plan to elect its board of trustees from single-member districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 29, effective September 1, 2003.)

Sec. 41.034. Incentive Aid.

(a) For the first and second school years after creation of a consolidated district under this subchapter, the commissioner shall adjust allotments to the consolidated district to the extent necessary to preserve the effects of an adjustment under Section 42.102, 42.103, or 42.105 to which either of the consolidating districts would have been entitled but for the consolidation.

(b) Except as provided by Subsection (c), a district receiving incentive aid payments under this section is not entitled to incentive aid under Subchapter G, Chapter 13.

(c) Four or more districts that consolidate into one district under this subchapter within a period of one year may elect to receive incentive aid under this section or to receive incentive aid for not more than five years under Subchapter G, Chapter 13. Incentive aid under this subsection may not provide the consolidated district with more revenue in state and local funds than the district would receive at the equalized wealth level.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
DETACHMENT AND ANNEXATION BY AGREEMENT

Sec. 41.061. Agreement.

(a) By agreement of the governing boards of two school districts, territory may be detached from one of the districts and annexed to the other district if, after the action:

(1) the wealth per student of the district from which territory is detached is equal to or less than the equalized wealth level; and

(2) the wealth per student of the district to which territory is annexed is not greater than the greatest level for which funds are provided under Subchapter F, Chapter 42.

(b) The agreement is not effective unless the commissioner certifies that, after all actions taken under this chapter, the wealth per student of each district involved will be equal to or less than the applicable level permitted by Subsection (a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.062. Governing Law.

Except to the extent of any conflict with this chapter and except for any requirement that detached property must be annexed to a school district that is contiguous to the detached territory, the annexation and detachment is governed by Chapter 13.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.063. Allocation of Appraised Value of Divided Unit.

If portions of a parcel or other item of property are located in different school districts as a result of a detachment and annexation under this subchapter, the parcel or other item of property shall be appraised for taxation as a unit, and the agreement shall allocate the taxable value of the property between the districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.064. Allocation of Indebtedness.

The annexation agreement may allocate to the receiving district any portion of the indebtedness of the district from which the territory is detached, and the receiving district assumes and is liable for the allocated indebtedness.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.065. Notice.

As soon as practicable after the agreement is executed, the districts involved shall notify each affected property owner and the appraisal district in which the affected property is located.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER D
PURCHASE OF ATTENDANCE CREDIT

Sec. 41.091. Agreement.

A school district with a wealth per student that exceeds the equalized wealth level may execute an agreement with the commissioner to purchase attendance credits in an amount sufficient, in combi-

nation with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.092. Credit.

(a) For each credit purchased, the weighted average daily attendance of the purchasing school district is increased by one student in weighted average daily attendance for purposes of determining whether the district exceeds the equalized wealth level.

(b) A credit is not used in determining a school district's scholastic population, average daily attendance, or weighted average daily attendance for purposes of Chapter 42 or 43.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.093. Cost.

(a) Subject to Subsection (b-1), the cost of each credit is an amount equal to the greater of:

(1) the amount of the district's maintenance and operations tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of maintenance and operations tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

(b) For purposes of this section, a school district's maintenance and operations tax revenue does not include any amounts paid into a tax increment fund under Chapter 311, Tax Code.

(b-1) If the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302(a-1)(1) for which state funds are appropriated for a school year is an amount at least equal to the amount of revenue per weighted student per cent of tax effort available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, the commissioner, in computing the amounts described by Subsections (a)(1) and (2) and determining the cost of an attendance credit, shall exclude maintenance and operations tax revenue resulting from the first six cents by which a district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

(b-2) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.02, effective September 1, 2008.]

(c) The cost of an attendance credit for a school district is computed using the final tax collections of the district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.02, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 9, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.06, effective September 1, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.02, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 45, effective September 1, 2009.)

Sec. 41.0931. Disaster Remediation Costs.

(a) This section applies only to a district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) Subject to Subsection (c), for the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, the total amount required to be paid by a district for attendance credits under Section 41.093 is reduced by the amount of any disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement.

(b-1) [Expired pursuant to Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 3, effective September 1, 2010.]

(c) To receive a reduction under this section, a district must provide the commissioner with acceptable documentation of disaster remediation costs paid by the district.

(d) The commissioner shall adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (c).

(e) Notwithstanding any other provision of this section, the commissioner may permit a district to use funds available to the district as a result of a reduction under this section to pay the costs of replacing a facility instead of repairing the facility. The commissioner shall ensure that a district that elects to replace a facility does not receive a reduction that exceeds the lesser of:

(1) the amount that would be available to the district if the facility were repaired; or

(2) the amount necessary to replace the facility.
(Enacted by Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 3, effective June 19, 2009.)

Sec. 41.094. Payment.

(a) A school district shall pay for credits purchased in equal monthly payments as determined by the commissioner beginning February 15 and ending August 15 of the school year for which the agreement is in effect.

(a-1) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1996.]

(b) Receipts shall be deposited in the state treasury and may be used only for foundation school program purposes.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.095. Duration.

An agreement under this section is valid for one school year and, subject to Section 41.096, may be renewed annually.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.096. Voter Approval.

(a) After first executing an agreement under this section, the board of trustees shall order and conduct an election, in the manner provided by Sections 13.003(d)—(g), to obtain voter approval of the agreement.

(b) The ballot shall be printed to permit voting for or against the proposition: "Authorizing the board of trustees of _____ School District to purchase attendance credits from the state with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.097. Credit for Appraisal Costs.

(a) The total amount required under Section 41.093 for a district to purchase attendance credits under this subchapter for any school year is reduced by an amount equal to the product of the district's total costs under Section 6.06, Tax Code, for the appraisal district or districts in which it participates multiplied by a percentage that is computed by dividing the total amount required under Section 41.093 by the total amount of taxes imposed in the district for that year less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

(b) A school district is entitled to a reduction under Subsection (a) beginning with the 1996-1997 school year. For that school year, the reduction to which a district is entitled is the sum of the amounts computed under Subsection (a) for the 1993-1994, 1994-1995, 1995-1996, and 1996-1997 school years. If that amount exceeds the total amount required under Section 41.093 for the 1996-1997 school year, the difference is carried forward and the total amount required under Section 41.093 is reduced each subsequent school year until the total amount of the credit has been applied to such reductions.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 10, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 648 (H.B. 1010), § 3, effective January 1, 2008.)

Sec. 41.098. Early Agreement Credit.

A district that submits a signed agreement under this subchapter to the commissioner before September 1 of the school year for which the agreement is made may reduce the total amount required to be paid for attendance credits under Section 41.093 by the lesser of four percent or $80 per credit purchased.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.099. Limitation.

(a) Sections 41.002(e), 41.094, 41.097, and 41.098 apply only to a district that:

(1) executes an agreement to purchase all attendance credits necessary to reduce the district's wealth per student to the equalized wealth level;

(2) executes an agreement to purchase attendance credits and an agreement under Subchapter E to contract for the education of nonresident students who transfer to and are educated in the district but who are not charged tuition; or

(3) executes an agreement under Subchapter E to contract for the education of nonresident students:

(A) to an extent that does not provide more than 10 percent of the reduction in wealth per student required for the district to achieve a wealth per student that is equal to or less than the equalized wealth level; and

(B) under which all revenue paid by the district to other districts, in excess of the reduction in state aid that results from counting the weighted average daily attendance of the stu-

dents served in the contracting district, is required to be used for funding a consortium of at least three districts in a county with a population of less than 40,000 that is formed to support a technology initiative.

(b) A district that executes an agreement under Subsection (a)(3) must pay full market value for any good or service the district obtains through the consortium.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 11, effective September 1, 1997.)

SUBCHAPTER E
EDUCATION OF NONRESIDENT STUDENTS

Sec. 41.121. Agreement.

(a) The board of trustees of a district with a wealth per student that exceeds the equalized wealth level may execute an agreement to educate the students of another district in a number that, when the weighted average daily attendance of the students served is added to the weighted average daily attendance of the contracting district, is sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner certifies that the transfer of weighted average daily attendance will not result in any of the contracting districts' wealth per student being greater than the equalized wealth level and that the agreement requires an expenditure per student in weighted average daily attendance that is at least equal to the amount per student in weighted average daily attendance required under Section 41.093.

(b) [Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 46, effective September 1, 2011.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 46, effective September 1, 2009.)

Sec. 41.122. Voter Approval.

(a) After first executing an agreement under this subchapter other than an agreement under Section 41.125, the board of trustees of the district that will be educating nonresident students shall order and conduct an election, in the manner provided by Sections 13.003(d)-(g), to obtain voter approval of the agreement.

(b) The ballot shall be printed to permit voting for or against the proposition: "Authorizing the board of trustees of _____ School District to educate students of other school districts with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 5, effective September 1, 2003.)

Sec. 41.123. WADA Count.

For purposes of Chapter 42, students served under an agreement under this subchapter are counted only in the weighted average daily attendance of the district providing the services, except that students served under an agreement authorized by Section 41.125 are counted in a manner determined by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 6, effective September 1, 2003.)

Sec. 41.124. Transfers.

(a) The board of trustees of a school district with a wealth per student that exceeds the equalized wealth level may reduce the district's wealth per student by serving nonresident students who transfer to the district and are educated by the district but who are not charged tuition. A district that exercises the option under this subsection is not required to execute an agreement with the school district in which a transferring student resides and must certify to the commissioner that the district has not charged or received tuition for the transferring students.

(b) A school district with a wealth per student that exceeds the equalized wealth level that pays tuition to another school district for the education of students that reside in the district may apply the amount of tuition paid toward the cost of the option chosen by the district to reduce its wealth per student. The amount applied under this subsection may not exceed the amount determined under Section 41.093 as the cost of an attendance credit for the district. The commissioner may require any reports necessary to document the tuition payments.

(c) A school district that receives tuition for a student from a school district with a wealth per student that exceeds the equalized wealth level may

not claim attendance for that student for purposes of Chapters 42 and 46 and the instructional materials allotment under Section 31.0211.
(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.07, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.012, effective September 1, 2011 am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 64, effective July 19, 2011.)

Sec. 41.125. Career and Technology Education Programs.

(a) The board of trustees of a school district with a wealth per student that exceeds the equalized wealth level may reduce the district's wealth per student by executing an agreement to provide students of one or more other districts with career and technology education through a program designated as an area program for career and technology education.

(b) The agreement is not effective unless the commissioner certifies that:

(1) implementation of the agreement will not result in any of the affected districts' wealth per student being greater than the equalized wealth level; and

(2) the agreement requires the district with a wealth per student that exceeds the equalized wealth level to make expenditures benefiting students from other districts in an amount at least equal to the amount that would be required for the district to purchase the number of attendance credits under Subchapter D necessary, in combination with any other actions taken under this chapter other than an action under this section, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.

(Enacted by Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 7, effective September 1, 2003.)

SUBCHAPTER F
TAX BASE CONSOLIDATION

Sec. 41.151. Agreement.

The board of trustees of two or more school districts may execute an agreement to conduct an election on the creation of a consolidated taxing district for the maintenance and operation of the component school districts. The agreement is subject to approval by the commissioner. The agreement is not effective unless the commissioner certifies that the consolidated taxing district will have a wealth per student equal to or less than the equalized wealth level after all actions taken under this chapter.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.152. Date of Election.

Any agreement under this subchapter must provide for the ordering of an election to be held on the same date in each district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.153. Proposition.

(a) The ballot shall be printed to permit voting for or against the proposition: "Creation of a consolidated taxing district composed of the territory of _____ school districts, and authorizing the levy, assessment, and collection of annual ad valorem taxes for the maintenance of the public free schools within that taxing district at a rate not to exceed $_____ on the $100 valuation of taxable property."

(b) The rate to be included in the proposition shall be provided by the agreement among the districts but may not exceed the maximum rate provided by law for independent school districts.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.154. Approval.

The proposition is approved only if the proposition receives a favorable vote of the majority of the votes cast within each participating school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.155. Consolidated Taxing District.

A consolidated taxing district is a school district established for the limited purpose of exercising the taxing power authorized by Section 3, Article VII, Texas Constitution, and distributing the revenue to its component school districts.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.156. Governance.

(a) The consolidated taxing district is governed by the boards of the component school districts acting jointly.

(b) Any action taken by the joint board must receive a favorable vote of a majority of each component district's board of trustees.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.157. Maintenance Tax.

(a) The joint board shall levy a maintenance tax for the benefit of the component school districts not

later than September 1 of each year or as soon thereafter as practicable.

(b) Each component district shall bear a share of the costs of assessing and collecting taxes in proportion to the component district's share of weighted average daily attendance in the consolidated taxing district.

(c) A component district may not levy an ad valorem tax for the maintenance and operation of the schools.

(d) Notwithstanding Section 45.003, the consolidated taxing district may levy, assess, and collect a maintenance tax for the benefit of the component districts at a rate that exceeds $1.50 per $100 valuation of taxable property to the extent necessary to pay contracted obligations on the lease purchase of permanent improvements to real property entered into on or before May 12, 1993. The proposition to impose taxes at the necessary rate must be submitted to the voters in the manner provided by Section 45.003.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.158. Revenue Distribution.

The consolidated taxing district shall distribute maintenance tax revenue to the component districts on the basis of the number of students in weighted average daily attendance in the component districts.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.159. Taxes of Component Districts.

(a) The governing board of a component school district of a consolidated taxing district that has consolidated for maintenance and operation purposes only may issue bonds and levy, pledge, and collect ad valorem taxes within that component district sufficient to pay the principal of and interest on those bonds as provided by Chapter 45.

(b) A component district levying an ad valorem tax under this section or Section 41.160(b)(1) is entitled to the guaranteed yield provided by Subchapter F, Chapter 42, for that portion of its tax rate that, when added to the maintenance tax levied by the consolidated taxing unit, does not exceed the limitation provided by Section 42.303.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.160. Optional Total Tax Base Consolidation.

(a) An agreement executed under Section 41.151 may provide for total tax base consolidation instead of consolidation for maintenance and operation purposes only.

(b) Under an agreement providing for total tax base consolidation:

(1) the component districts may not levy maintenance or bond taxes, except to the extent necessary to retire bonds and other obligations issued before the effective date of the consolidation;

(2) the joint board may issue bonds and levy, pledge, and collect ad valorem taxes sufficient to pay the principal of and interest on those bonds, and issue refunding bonds, as provided by Chapter 45 for independent school districts; and

(3) to the end of the ballot proposition required under Section 41.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district after the effective date of the consolidation and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

(c) Under an agreement providing for total tax base consolidation:

(1) the component districts may provide for the consolidated taxing district to assume all of the indebtedness of all component districts; and

(2) to the end of the ballot proposition required by Section 41.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district or previously issued by the component school districts and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER G
DETACHMENT AND ANNEXATION BY COMMISSIONER

Sec. 41.201. Definition.

In this subchapter, "mineral property" means a real property mineral interest that has been severed from the surface estate by a mineral lease creating a determinable fee or by a conveyance that creates an interest taxable separately from the surface estate. A mineral property includes each royalty interest, working interest, or other undivided interest in the mineral property.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.202. Determination of Taxable Value.

(a) For purposes of this subchapter, the taxable value of an individual parcel or other item of property and the total taxable value of property in a school district resulting from the detachment of property from or annexation of property to that district is determined by applying the appraisal ratio for the appropriate category of property determined under Subchapter M, Chapter 403, Government Code, for the preceding tax year to the taxable value of the detached or annexed property determined under Title 1, Tax Code, for the preceding tax year.

(b) For purposes of this subchapter, the taxable value of all or a portion of a parcel or item of real property includes the taxable value of personal property having taxable situs at the same location as the real property.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.203. Property Subject to Detachment and Annexation.

(a) Only the following property may be detached and annexed under this subchapter:

(1) a mineral property;

(2) real property used in the operation of a public utility, including a pipeline, pipeline gathering system, or railroad or other rail system; and

(3) real property used primarily for industrial or other commercial purposes, other than property used primarily for agriculture or for residential purposes.

(b) If a final judgment of a court determines that a mineral interest may not be annexed and detached as provided by this subchapter without an attendant annexation and detachment of the surface estate or any other interest in the same land, the detachment and annexation of a mineral interest under this subchapter includes the surface estate and each other interest in the land covered by the mineral interest.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.204. Taxation of Personal Property.

Personal property having a taxable situs at the same location as real property detached and annexed under this subchapter is taxable by the school district to which the real property is annexed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.205. Detachment of Property.

(a) The commissioner shall detach property under this section from each school district from which the commissioner is required under Section 41.004 to detach property under this subchapter.

(b) The commissioner shall detach from each school district covered by Subsection (a) one or more whole parcels or items of property in descending order of the taxable value of each parcel or item, beginning with the parcel or item having the greatest taxable value, until the school district's wealth per student is equal to or less than the equalized wealth level, except as otherwise provided by Subsection (c).

(c) If the detachment of whole parcels or items of property, as provided by Subsection (a) would result in a district's wealth per student that is less than the equalized wealth level by more than $10,000, the commissioner may not detach the last parcel or item of property and shall detach the next one or more parcels or items of property in descending order of taxable value that would result in the school district having a wealth per student that is equal to or less than the equalized wealth level by not more than $10,000.

(d) Notwithstanding Subsections (a), (b), and (c), the commissioner may detach only a portion of a parcel or item of property if:

(1) it is not possible to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level under this subchapter unless some or all of the parcel or item of property is detached and the detachment of the whole parcel or item would result in the district from which it is detached having a wealth per student that is less than the equalized wealth level by more than $10,000; or

(2) the commissioner determines that a partial detachment of that parcel or item of property is preferable to the detachment of one or more other parcels or items having a lower taxable value in order to minimize the number of parcels or items of property to be detached consistent with the purposes of this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.206. Annexation of Property.

(a) The commissioner shall annex property detached under Section 41.205 to school districts eligible for annexation in accordance with this section. A school district is eligible for annexation of property to it under this subchapter only if, before any detachments or annexations are made in a year, the

district's wealth per student is less than the greatest level for which funds are provided under Subchapter F, Chapter 42.

(b) Property may be annexed to a school district without regard to whether the property is contiguous to other property in that district.

(c) The commissioner shall annex property detached from school districts beginning with the property detached from the school district with the greatest wealth per student before detachment, and continuing with the property detached from each other school district in descending order of the district's wealth per student before detachment.

(d) The commissioner shall annex the parcels or items of property detached from a school district to other school districts that are eligible for annexation of property in descending order of the taxable value of each parcel or item according to the following priorities:

(1) first, to the eligible school districts assigned to the same county as the school district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than $0.15 the total tax rate adopted for that year by the school district from which the property is detached;

(2) second, to the eligible school districts served by the same regional education service center as the district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than $0.10 the total tax rate adopted for that year by the school district from which the property is detached; and

(3) third, to other eligible school districts whose total adopted tax rate for the preceding tax year does not exceed by more than $0.05 the total tax rate adopted for that year by the school district from which the property is detached.

(e) If the districts identified by Subsection (d) for a school district are insufficient to annex all the property detached from the school district, the commissioner shall increase, for purposes of this section, all the maximum difference in tax rates allowed under Subsection (d) in increments of $0.01 until the districts are identified that are sufficient to annex all the property detached from the district.

(f) If only one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall annex property to that district until it reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter F, Chapter 42, by annexing whole parcels or items of property. Any remaining detached property shall be annexed to eligible school districts in the next priority group as provided by this section.

(g) If more than one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall first annex property to the district within the priority group to which could be annexed the most taxable value of property without increasing its wealth per student above the greatest level for which funds are provided under Subchapter F, Chapter 42, until that district reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter F, Chapter 42, by annexing whole parcels or items of property. Then any additional detached property shall be annexed in the same manner to other eligible school districts in the same priority group in descending order of capacity to receive taxable value of annexed property without increasing the district's wealth per student above the greatest level for which funds are provided under Subchapter F, Chapter 42. If every school district in a priority group reaches a wealth per student equal to the greatest level for which funds are provided under Subchapter F, Chapter 42, as nearly as possible, the remaining detached property shall be annexed to school districts in the next priority group in the manner provided by this section.

(h) For purposes of this section, a portion of a parcel or item of property detached in that subdivided form from a school district is treated as a whole parcel or item of property.

(i) The commissioner may order the annexation of a portion of a parcel or item of property, including a portion of property treated as a whole parcel or item under Subsection (h), if:

(1) the annexation of the whole parcel or item would result in the district eligible to receive it in the appropriate priority order provided by this section having a wealth per student greater than $10,000 more than the greatest level for which funds are provided under Subchapter F, Chapter 42; or

(2) the commissioner determines that annexation of portions of the parcel or item would reduce disparities in district wealth per student more efficiently than would be possible if the parcel or item were annexed as a whole.

(j) The commissioner may modify the priorities established by this section as the commissioner considers reasonable to minimize or reduce the number of school districts to which the property detached from a school district is annexed, to minimize or reduce the geographic dispersal of property in a school district, to minimize or reduce disparities

in school district wealth per student that would otherwise result, or to minimize or reduce any administrative burden or expense.

(k) For purposes of this section, a school district is assigned to a county if the school district is assigned to that county in the 1992-1993 Texas School Directory published by the Central Education Agency.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.207. Limitations on Detachment and Annexation.

The commissioner may detach and annex property under this subchapter only if:

(1) the property is not exempt from ad valorem taxation under Section 11.20 or 11.21, Tax Code; and

(2) the property does not contain a building or structure owned by the United States, this state, or a political subdivision of this state that is exempt from ad valorem taxation under law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.208. Orders and Notice.

(a) The commissioner shall order any detachments and annexations of property under this subchapter not later than November 8 of each year.

(b) As soon as practicable after issuing the order under Subsection (a), the commissioner shall notify each affected school district and the appraisal district in which the affected property is located of the determination.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.209. Treatment of Subdivided Property.

(a) If the commissioner orders the detachment or annexation of a portion of a parcel or item of property under this subchapter, the order shall specify the portion of the taxable value of the property to be detached or annexed and may, but need not, describe the specific area of the parcel or item to be detached or annexed.

(b) If an order for the detachment or annexation of a portion of a parcel or item of property does not describe the specific area of the parcel or item to be detached or annexed, the commissioner, as soon as practicable after issuing the order, shall determine the specific area to be detached or annexed and shall certify that determination to the appraisal district for the county in which the property is located.

(c) If portions of a parcel or item of property are located in two or more school districts as the result of a detachment or annexation, the parcel or item shall be appraised for taxation as a unit, and the commissioner shall determine the portion of the taxable value of the property that is located in each of those school districts based on the square footage of the property, or any other reasonable method adopted by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.210. Duties of Chief Appraiser.

(a) The chief appraiser of each appraisal district shall cooperate with the commissioner in administering this subchapter. The commissioner may require the chief appraiser to submit any reports or provide any information available to the chief appraiser in the form and at the times required by the commissioner.

(b) As soon as practicable after the detachment and annexation of property, the chief appraiser of the appraisal district in which the property is located shall send a written notice of the detachment and annexation to the owner of any property taxable in a different school district as a result of the detachment and annexation. The notice must include the name of the school district by which the property is taxable after the detachment and annexation.

(c) The commissioner may reimburse an appraisal district for any costs incurred in administering this subchapter and may condition the reimbursement or the amount of the reimbursement on the timely submission of reports or information required by the commissioner or the satisfactory performance of any other action required or requested by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 648 (H.B. 1010), § 4, effective January 1, 2008.)

Sec. 41.211. Student Attendance.

A student who is a resident of real property detached from a school district may choose to attend school in that district or in the district to which the property is annexed. For purposes of determining average daily attendance under Section 42.005, the student shall be counted in the district to which the property is annexed. If the student chooses to attend school in the district from which the property is detached, the state shall withhold any foundation school funds from the district to which the property is annexed and shall allocate to the district in which the student is attending school those funds and the amount of funds equal to the difference between the

state funds the district is receiving for the student and the district's cost in educating the student.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.212. Bond Taxes.

Property detached from a school district is released from the obligation for any tax to pay principal and interest on bonds authorized by the district before detachment. The property is subject to any tax to pay principal or interest on bonds authorized by the district to which the property is annexed whether authorized before or after annexation.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.213. Determination by Commissioner Final.

A decision or determination of the commissioner under this subchapter is final and not appealable.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER H
CONSOLIDATION BY COMMISSIONER

Sec. 41.251. Commissioner Order.

If the commissioner is required under Section 41.004 to order the consolidation of districts, the consolidation is governed by this subchapter. The commissioner's order shall be effective on a date determined by the commissioner, but not later than the earliest practicable date after November 8.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.252. Selection Criteria.

(a) In selecting the districts to be consolidated with a district that has a property wealth greater than the equalized wealth level, the commissioner shall select one or more districts with a wealth per student that, when consolidated, will result in a consolidated district with a wealth per student equal to or less than the equalized wealth level. In achieving that result, the commissioner shall give priority to school districts in the following order:

(1) first, to the contiguous district that has the lowest wealth per student and is located in the same county;

(2) second, to the district that has the lowest wealth per student and is located in the same county;

(3) third, to a contiguous district with a property wealth below the equalized wealth level that has requested the commissioner that it be considered in a consolidation plan;

(4) fourth, to include as few districts as possible that fall below the equalized wealth level within the consolidation order that have not requested the commissioner to be included;

(5) fifth, to the district that has the lowest wealth per student and is located in the same regional education service center area; and

(6) sixth, to a district that has a tax rate similar to that of the district that has a property wealth greater than the equalized wealth level.

(b) The commissioner may not select a district that has been created as a result of consolidation by agreement under Subchapter B to be consolidated under this subchapter with a district that has a property wealth greater than the equalized wealth level.

(c) In applying the selection criteria specified by Subsection (a), if more than two districts are to be consolidated, the commissioner shall select the third and each subsequent district to be consolidated by treating the district that has a property wealth greater than the equalized wealth level and the district or districts previously selected for consolidation as one district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.253. Governance.

(a) Until the initial trustees elected as provided by Subsection (b) have qualified and taken office, a district consolidated under this subchapter is governed by a transitional board of trustees consisting of the board of trustees of the district having the greatest student membership on the last day of the school year preceding the consolidation plus one member of the board of trustees of each other consolidating district selected by that board.

(b) The transitional board of trustees shall divide the consolidated district into nine single-member trustee districts in accordance with the procedures provided by Section 11.052. The transitional board shall order an election for the initial board of trustees to be held on the first May uniform election date after the effective date of a consolidation order.

(c) Members of the board of trustees of a consolidated district serve staggered terms of office for four years.

(d) Section 13.156 applies to districts consolidated under this subchapter.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 340 (S.B. 79), § 3, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), § 4, effective October 1, 2005.)

Sec. 41.254. Dissolution of Consolidated District.

(a) If the legislature abolishes ad valorem taxes for public school maintenance and operations and adopts another method of funding public education, the board of trustees of a consolidated district created under this subchapter may dissolve the consolidated district, provided that the dissolution is approved by a majority of those voters residing within the district participating in an election called for the purpose of approving the dissolution of the consolidated school district.

(b) If a consolidated district is dissolved, each of the former districts is restored as a separate district and is classified as an independent district.

(c) Title to real property of the consolidated district is allocated to the restored district in which the property is located. Title to proportionate shares of the fund balances and personal property of the consolidated district, as determined by Subsection (e), are allocated to each restored district.

(d) Each of the restored districts assumes and is liable for:

(1) indebtedness of the consolidated district that relates to real property allocated to the district; and

(2) a proportionate share, as determined by Subsection (e), of indebtedness of the consolidated district that does not relate to real property.

(e) A restored district's proportionate share of fund balances, personal property, or indebtedness is equal to the proportion that the number of students in average daily attendance in the restored district bears to the number of students in average daily attendance in the consolidated district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.255. Fund Balances.

Fund balances of a school district consolidated under this subchapter may be used only for the benefit of the schools within the district that generated the funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.256. Employment Contracts.

A consolidated district created under this subchapter shall honor an employment contract entered into by a consolidating district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 41.257. Application of Small and Sparse Adjustments and Transportation Allotment.

The budget of the consolidated district must apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section 42.103, 42.105, or 42.155 would have applied in the event that the consolidated district still qualifies as a small or sparse district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

CHAPTER 42
FOUNDATION SCHOOL PROGRAM

Subchapter A. General Provisions

Subchapter B. Basic Entitlement

Subchapter C. Special Allotments

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 42.001. State Policy.

(a) It is the policy of this state that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to the student's educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

(b) The public school finance system of this state shall adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student at similar tax effort, considering all state and local tax revenues of districts after acknowledging all legitimate student and district cost differences.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.002. Purposes of Foundation School Program.

(a) The purposes of the Foundation School Program set forth in this chapter are to guarantee that each school district in the state has:

(1) adequate resources to provide each eligible student a basic instructional program and facilities suitable to the student's educational needs; and

(2) access to a substantially equalized program of financing in excess of basic costs for certain services, as provided by this chapter.

(b) The Foundation School Program consists of:

(1) two tiers that in combination provide for:

(A) sufficient financing for all school districts to provide a basic program of education that is rated acceptable or higher under Section 39.054 and meets other applicable legal standards; and

(B) substantially equal access to funds to provide an enriched program; and

(2) a facilities component as provided by Chapter 46.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.09, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 60, effective June 19, 2009.)

Sec. 42.003. Student Eligibility.

(a) A student is entitled to the benefits of the Foundation School Program if, on September 1 of the school year, the student:

(1) is 5 years of age or older and under 21 years of age and has not graduated from high school, or is at least 21 years of age and under 26 years of age and has been admitted by a school district to complete the requirements for a high school diploma; or

(2) is at least 19 years of age and under 26 years of age and is enrolled in an adult high school diploma and industry certification charter school pilot program under Section 29.259.

(b) A student to whom Subsection (a) does not apply is entitled to the benefits of the Foundation School Program if the student is enrolled in a prekindergarten class under Section 29.153.

(c) A child may be enrolled in the first grade if the child is at least six years of age at the beginning of the school year of the district or has been enrolled in the first grade or has completed kindergarten in the public schools in another state before transferring to a public school in this state.

(d) Notwithstanding Subsection (a), a student younger than five years of age is entitled to the benefits of the Foundation School Program if:

(1) the student performs satisfactorily on the assessment instrument administered under Section 39.023(a) to students in the third grade; and

(2) the district has adopted a policy for admitting students younger than five years of age.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 850 (H.B. 1137), § 5, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 478 (S.B. 1142), § 2, effective September 1, 2013.)

Sec. 42.004. Administration of the Program.

The commissioner, in accordance with the rules of the State Board of Education, shall take such action and require such reports consistent with this chapter as may be necessary to implement and administer the Foundation School Program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.005. Average Daily Attendance.

(a) In this chapter, average daily attendance is:

(1) the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under Section 25.081(a) divided by the minimum number of days of instruction;

(2) for a district that operates under a flexible year program under Section 29.0821, the quotient of the sum of attendance for each actual day of instruction as permitted by Section 29.0821(b)(1) divided by the number of actual days of instruction as permitted by Section 29.0821(b)(1); or

(3) for a district that operates under a flexible school day program under Section 29.0822, the average daily attendance as calculated by the commissioner in accordance with Section 29.0822(d).

(a-1) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective September 1, 1997.]

(b) A school district that experiences a decline of two percent or more in average daily attendance shall be funded on the basis of:

(1) the actual average daily attendance of the preceding school year, if the decline is the result of the closing or reduction in personnel of a military base; or

(2) subject to Subsection (e), an average daily attendance not to exceed 98 percent of the actual average daily attendance of the preceding school year, if the decline is not the result of the closing or reduction in personnel of a military base.

(c) The commissioner shall adjust the average daily attendance of a school district that has a significant percentage of students who are migratory children as defined by 20 U.S.C. Section 6399.

(d) The commissioner may adjust the average daily attendance of a school district in which a disaster, flood, extreme weather condition, fuel cur-

tailment, or other calamity has a significant effect on the district's attendance.

(e) For each school year, the commissioner shall adjust the average daily attendance of school districts that are entitled to funding on the basis of an adjusted average daily attendance under Subsection (b)(2) so that:

(1) all districts are funded on the basis of the same percentage of the preceding year's actual average daily attendance; and

(2) the total cost to the state does not exceed the amount specifically appropriated for that year for purposes of Subsection (b)(2).

(f) An open-enrollment charter school is not entitled to funding based on an adjustment under Subsection (b)(2).

(g) If a student may receive course credit toward the student's high school academic requirements and toward the student's higher education academic requirements for a single course, including a course provided under Section 28.009 by a public institution of higher education, the time during which the student attends the course shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance for purposes of this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 12, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 924 (S.B. 450), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 220 (H.B. 415), § 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 824 (S.B. 346), § 3, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1339 (S.B. 151), § 4, effective June 18, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 5, § 5.07, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 47, 48, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1104 (S.B. 1619), § 2, effective June 17, 2011.)

Sec. 42.0051. Average Daily Attendance for Districts in Disaster Area.

(a) From funds specifically appropriated for the purpose or other funds available to the commissioner for that purpose, the commissioner shall adjust the average daily attendance of a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

(b) The adjustment must be sufficient to ensure that the district receives funding comparable to the funding that the district would have received if the decline in average daily attendance reasonably attributable to the impact of the disaster had not occurred.

(c) The commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

(d) Section 42.005(b)(2) does not apply to a district that receives an adjustment under this section.

(e) A district that receives an adjustment under this section may not receive any additional adjustment under Section 42.005(d) for the decline in average daily attendance on which the adjustment under this section is based.

(f) For purposes of this title, a district's adjusted average daily attendance under this section is considered to be the district's average daily attendance as determined under Section 42.005.

(Enacted by Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 4, effective June 19, 2009.)

Sec. 42.006. Public Education Information Management System (PEIMS).

(a) Each school district shall participate in the Public Education Information Management System (PEIMS) and shall provide through that system information required for the administration of this chapter and of other appropriate provisions of this code.

(a-1) The commissioner by rule shall require each school district and open-enrollment charter school to report through the Public Education Information Management System information regarding the number of students enrolled in the district or school who are identified as having dyslexia. The agency shall maintain the information provided in accordance with this subsection.

(b) Each school district shall use a uniform accounting system adopted by the commissioner for the data required to be reported for the Public Education Information Management System.

(c) Annually, the commissioner shall review the Public Education Information Management System and shall repeal or amend rules that require school districts to provide information through the Public Education Information Management System that is not necessary. In reviewing and revising the Public Education Information Management System, the commissioner shall develop rules to ensure that the system:

(1) provides useful, accurate, and timely information on student demographics and academic

performance, personnel, and school district finances;

(2) contains only the data necessary for the legislature and the agency to perform their legally authorized functions in overseeing the public education system; and

(3) does not contain any information related to instructional methods, except as provided by Section 29.066 or required by federal law.

(d) The commissioner's rules must ensure that the Public Education Information Management System links student performance data to other related information for purposes of efficient and effective allocation of scarce school resources, to the extent practicable using existing agency resources and appropriations.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 903 (S.B. 894), § 2, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1340 (S.B. 1871), § 7, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 295 (H.B. 1264), § 1, effective June 14, 2013.)

Sec. 42.007. Equalized Funding Elements.

(a) The Legislative Budget Board shall adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium of the qualified funding elements, in accordance with Subsection (c), necessary to achieve the state policy under Section 42.001.

(b) Before each regular session of the legislature, the board shall, as determined by the board, report the equalized funding elements to the commissioner and the legislature.

(c) The funding elements must include:

(1) a basic allotment for the purposes of Section 42.101 that, when combined with the guaranteed yield component provided by Subchapter F, represents the cost per student of a regular education program that meets all mandates of law and regulation;

(2) adjustments designed to reflect the variation in known resource costs and costs of education beyond the control of school districts;

(3) appropriate program cost differentials and other funding elements for the programs authorized under Subchapter C, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;

(4) the maximum guaranteed level of qualified state and local funds per student for the purposes of Subchapter F;

(5) the enrichment and facilities tax rate under Subchapter F;

(6) the computation of students in weighted average daily attendance under Section 42.302; and

(7) the amount to be appropriated for the school facilities assistance program under Chapter 46.

(d) [Repealed by Acts 2005, 79th Leg., ch. 741 (H.B. 2753), § 10(b), effective June 17, 2005].

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 13, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.10, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 741 (H.B. 2753), §§ 2, 10(b), effective June 17, 2005.)

Sec. 42.008. Limitation on Revenue Increases [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.31(2), effective September 1, 2011.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 49, effective September 1, 2009.)

Sec. 42.009. Determination of Funding Levels.

(a) Not later than July 1 of each year, the commissioner shall determine for each school district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010-2011 school year. If the amount estimated to be provided is less, the commissioner shall certify the percentage decrease in funding to be provided to the district.

(b) In making the determinations regarding funding levels required by Subsection (a), the commissioner shall:

(1) make adjustments as necessary to reflect changes in a school district's maintenance and operations tax rate;

(2) for a district required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level, base the determinations on the district's net funding levels after deducting any amounts required to be expended by the district to comply with Chapter 41; and

(3) determine a district's weighted average daily attendance in accordance with this chapter as it existed on January 1, 2011.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 18, effective September 28, 2011.)

SUBCHAPTER B
BASIC ENTITLEMENT

Sec. 42.101. [2 Versions: Effective Until September 1, 2015] Basic and Regular Program Allotment.

(a) The basic allotment is an amount equal to the lesser of $4,765 or the amount that results from the following formula:

A = $4,765 X (DCR/MCR)

where:

"A" is the resulting amount for a district;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50.

(a-1), (a-2) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.31(3), effective September 1, 2011.]

(b) A greater amount for any school year for the basic allotment under Subsection (a) may be provided by appropriation.

(c) **[Expires September 1, 2015]** A school district is entitled to a regular program allotment equal to the amount that results from the following formula:

RPA = ADA X AA X RPAF

where:

"RPA" is the regular program allotment to which the district is entitled;

"ADA" is the number of students in average daily attendance in a district, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C;

"AA" is the district's adjusted basic allotment, as determined under Section 42.102 and, if applicable, as further adjusted under Section 42.103; and

"RPAF" is the regular program adjustment factor.

(c-1) **[Expires September 1, 2015]** Except as provided by Subsection (c-2), the regular program adjustment factor ("RPAF") is 0.9239 for the 2011-2012 school year and 0.98 for the 2012-2013 school year.

(c-2) **[Expires September 1, 2015]** For a school district that does not receive funding under Section 42.2516 for the 2011-2012 school year, the commissioner may set the regular program adjustment factor ("RPAF") at 0.95195 for the 2011-2012 and 2012-2013 school years if the district demonstrates that funding reductions as a result of adjustments to the regular program allotment made by S.B. No. 1, Acts of the 82nd Legislature, 1st Called Session, 2011, will result in a hardship to the district in the 2011-2012 school year. Notwithstanding any other provision of this subsection, the commissioner shall adjust the regular program adjustment factor ("RPAF") for the 2012-2013 school year for a school district whose regular program adjustment factor is set in accordance with this subsection to ensure that the total amount of state and local revenue in the combined 2011-2012 and 2012-2013 school years does not differ from the amount the district would have received if the district's regular program adjustment factor had not been set in accordance with this subsection. A determination by the commissioner under this subsection is final and may not be appealed.

(c-3) **[Expires September 1, 2015]** The regular program adjustment factor ("RPAF") is 0.98 for the 2013-2014 and 2014-2015 school years or a greater amount established by 0 appropriation, not to exceed 1.0. This subsection and Subsections (c), (c-1), and (c-2) expire September 1, 2015.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 14, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.11, effective September 1, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 50, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 57.07, 57.08, 57.31(3), effective September 1, 2011.)

Sec. 42.101. [2 Versions: Effective September 1, 2015] Basic Allotment.

(a) For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment equal to the lesser of $4,765 or the amount that results from the following formula:

A = $4,765 X (DCR/MCR)

where:

"A" is the allotment to which a district is entitled;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by

the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50.

(b) A greater amount for any school year may be provided by appropriation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 14, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.11, effective September 1, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.03, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 50, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 57.07, 57.08, 57.31(3), effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.09, effective September 1, 2015.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.102. Cost of Education Adjustment.

(a) The basic allotment for each district is adjusted to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district.

(b) The cost of education adjustment is the cost of education index adjustment adopted by the foundation school fund budget committee and contained in Chapter 203, Title 19, Texas Administrative Code, as that chapter existed on March 26, 1997.

(c) [Repealed by Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 30, effective September 1, 1997.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), §§ 15, 30, effective September 1, 1997.)

Sec. 42.103. Small and Mid-Sized District Adjustment.

(a) The basic allotment for certain small and mid-sized districts is adjusted in accordance with this section. In this section:

(1) "AA" is the district's adjusted allotment per student;

(2) "ADA" is the number of students in average daily attendance for which the district is entitled to an allotment under Section 42.101; and

(3) "ABA" is the adjusted basic allotment determined under Section 42.102.

(b) The basic allotment of a school district that contains at least 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

AA = (1 + ((1,600 - ADA) X .0004)) X ABA

(c) The basic allotment of a school district that contains less than 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

AA = (1 + ((1,600 - ADA) X .00025)) X ABA

(d) The basic allotment of a school district that offers a kindergarten through grade 12 program and has less than 5,000 students in average daily attendance is adjusted by applying the formula, of the following formulas, that results in the greatest adjusted allotment:

(1) the formula in Subsection (b) or (c) for which the district is eligible; or

(2) AA = (1 + ((5,000 - ADA) X .000025)) X ABA.

(e) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(5), effective September 1, 2009.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 553 (H.B. 2864), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.008, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(5), effective September 1, 2009.)

Sec. 42.104. Use of Small or Mid-Sized District Adjustment in Calculating Special Allotments.

In determining the amount of a special allotment under Subchapter C for a district to which Section 42.103 applies, a district's adjusted basic allotment is considered to be the district's adjusted allotment determined under Section 42.103.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.105. [2 Versions: Effective Until September 1, 2015] Sparsity Adjustment.

Notwithstanding Sections 42.101, 42.102, and 42.103, a school district that has fewer than 130 students in average daily attendance shall be provided a regular program allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30

miles or more by bus route from the nearest high school district shall be provided a regular program allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the regular program allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the adjusted basic allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.10, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.105. [2 Versions: Effective September 1, 2015] Sparsity Adjustment.

Notwithstanding Sections 42.101, 42.102, and 42.103, a school district that has fewer than 130 students in average daily attendance shall be provided an adjusted basic allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided an adjusted basic allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the adjusted basic allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.10, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.11, effective September 1, 2015.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.106. Tuition Allotment for Districts Not Offering All Grade Levels.

A school district that contracts for students residing in the district to be educated in another district under Section 25.039(a) is entitled to receive an allotment equal to the total amount of tuition required to be paid by the district under Section 25.039, not to exceed the amount specified by commissioner rule under Section 25.039(b).

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.12, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1069 (H.B. 1619), § 2, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 51, effective September 1, 2009.)

SUBCHAPTER C
SPECIAL ALLOTMENTS

Sec. 42.151. Special Education.

(a) For each student in average daily attendance in a special education program under Subchapter A, Chapter 29, in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.1. For each full-time equivalent student in average daily attendance in a special education program under Subchapter A, Chapter 29, in an instructional arrangement other than a mainstream instructional arrangement, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as follows:

Homebound	5.0
Hospital class	3.0
Speech therapy	5.0
Resource room	3.0
Self-contained, mild and moderate, regular campus	3.0
Self-contained, severe, regular campus	3.0
Off home campus	2.7
Nonpublic day school	1.7
Vocational adjustment class	2.3

(b) A special instructional arrangement for students with disabilities residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established under the rules of the State Board of Education. The funding weight for this arrangement shall be 4.0 for those students who receive their education service on a local school district campus. A special instructional arrangement for students with disabilities residing in state schools shall be established under

the rules of the State Board of Education with a funding weight of 2.8.

(c) For funding purposes, the number of contact hours credited per day for each student in the off home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.

(d) For funding purposes the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

(e) The State Board of Education by rule shall prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under this section. In prescribing the qualifications that a mainstream instructional arrangement must meet, the board shall establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.

(f) In this section, "full-time equivalent student" means 30 hours of contact a week between a special education student and special education program personnel.

(g) The State Board of Education shall adopt rules and procedures governing contracts for residential placement of special education students. The legislature shall provide by appropriation for the state's share of the costs of those placements.

(h) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in the special education program under Subchapter A, Chapter 29.

(i) The agency shall encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for their educational needs.

(j) [Repealed by Acts 2011, 82nd Leg., ch. 494 (H.B. 1130), § 1, effective September 1, 2011.]

(k) A school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner, of the adjusted basic allotment or adjusted allotment, as applicable, for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under this section, for each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed $10 million per year. A school district may use funds received under this section only in providing an extended year program.

(*l*) From the total amount of funds appropriated for special education under this section, the commissioner shall withhold an amount specified in the General Appropriations Act, and distribute that amount to school districts for programs under Section 29.014. The program established under that section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the commissioner shall reduce each district's allotment proportionately and shall allocate funds to each district accordingly.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 545 (H.B. 1441), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 494 (H.B. 1130), § 1, effective September 1, 2011.)

Sec. 42.152. Compensatory Education Allotment.

(a) For each student who is educationally disadvantaged or who is a student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.2, and by 2.41 for each full-time equivalent student who is in a remedial and support program under Section 29.081 because the student is pregnant.

(b) For purposes of this section, the number of educationally disadvantaged students is determined:

(1) by averaging the best six months' enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or

(2) in the manner provided by commissioner rule, if no campus in the district participated in the national school lunch program of free or reduced-price lunches during the preceding school year.

(c) Funds allocated under this section shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of

dropping out of school, as defined by Section 29.081, and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or a disciplinary alternative education program established under Section 37.008, to pay the costs associated with placing students in a juvenile justice alternative education program established under Section 37.011, or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) for a purpose authorized in this subsection but is not otherwise subject to Subchapter C, Chapter 29. For purposes of this subsection, a program specifically designed to serve students at risk of dropping out of school, as defined by Section 29.081, is considered to be a program supplemental to the regular education program, and a district may use its compensatory education allotment for such a program.

(c-1) Notwithstanding Subsection (c), funds allocated under this section may be used to fund in proportion to the percentage of students served by the program that meet the criteria in Section 29.081(d) or (g):

(1) an accelerated reading instruction program under Section 28.006(g); or

(2) a program for treatment of students who have dyslexia or a related disorder as required by Section 38.003.

(c-2) Notwithstanding Subsection (c), funds allocated under this section may be used to fund a district's mentoring services program under Section 29.089.

(d) The agency shall evaluate the effectiveness of accelerated instruction and support programs provided under Section 29.081 for students at risk of dropping out of school.

(e) to (p) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(6), effective September 1, 2009.]

(q) The State Board of Education, with the assistance of the comptroller, shall develop and implement by rule reporting and auditing systems for district and campus expenditures of compensatory education funds to ensure that compensatory education funds, other than the indirect cost allotment, are spent only to supplement the regular education program as required by Subsection (c). The reporting requirements shall be managed electronically to minimize local administrative costs. A district shall submit the report required by this subsection not later than the 150th day after the last day permissible for resubmission of information required under Section 42.006.

(q-1) The commissioner shall develop a system to identify school districts that are at high risk of having used compensatory education funds other than in compliance with Subsection (c) or of having inadequately reported compensatory education expenditures. If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is not at high risk of having misused compensatory education funds or of having inadequately reported compensatory education expenditures, the district may not be required to perform a local audit of compensatory education expenditures and is not subject to on-site monitoring under this section.

(q-2) If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is at high risk of having misused compensatory education funds, the commissioner shall notify the district of that determination. The district must respond to the commissioner not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having misused compensatory education funds or if the district does not respond in a timely manner, the commissioner shall:

(1) require the district to conduct a local audit of compensatory education expenditures for the current or preceding school year;

(2) order agency staff to conduct on-site monitoring of the district's compensatory education expenditures; or

(3) both require a local audit and order on-site monitoring.

(q-3) If a review of the report submitted under Subsection (q), using the risk-based system, indicates that a district is at high risk of having inadequately reported compensatory education expendi-

tures, the commissioner may require agency staff to assist the district in following the proper reporting methods or amending a district or campus improvement plan under Subchapter F, Chapter 11. If the district does not take appropriate corrective action before the 45th day after the date the agency staff notifies the district of the action the district is expected to take, the commissioner may:

(1) require the district to conduct a local audit of the district's compensatory education expenditures; or

(2) order agency staff to conduct on-site monitoring of the district's compensatory education expenditures.

(q-4) The commissioner, in the year following a local audit of compensatory education expenditures, shall withhold from a district's foundation school fund payment an amount equal to the amount of compensatory education funds the agency determines were not used in compliance with Subsection (c). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (c).

(r) The commissioner shall grant a one-year exemption from the requirements of Subsections (q)—(q-4) to a school district in which the group of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (*l*) subsequently performs on those assessment instruments at a level that meets or exceeds a level prescribed by commissioner rule. Each year the commissioner, based on the most recent information available, shall determine if a school district is entitled to an exemption for the following school year and notify the district of that determination.

(s) to (s-3) [Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 53, effective September 1, 2013.]

(t), (u) [Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(6), effective September 1, 2009.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 16, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.13, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 725 (S.B. 702), § 11, effective June 13, 2001; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), §§ 4, 12, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 30, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 253 (H.B. 1691), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 783 (S.B. 16), § 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 57, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 903 (S.B. 894), § 3, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.009, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), art. 23, § 23.001(17), effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1204 (H.B. 1609), § 3, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), §§ 52, 53, 105(a)(6), effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.12, effective September 28, 2011.)

Sec. 42.153. Bilingual Education Allotment.

(a) For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1.

(b) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures.

(c) A district's bilingual education or special language allocation may be used only for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.154. Career and Technology Education Allotment.

(a) For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to:

(1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and

(2) $50, if the student is enrolled in:

(A) two or more advanced career and technology education classes for a total of three or more credits; or

(B) an advanced course as part of a tech-prep program under Subchapter T, Chapter 61.

(a-1) [Expired pursuant to Acts 2007, 80th Leg., ch. 763 (H.B. 3485), § 5, effective February 1, 2013.]

(b) In this section, "full-time equivalent student" means 30 hours of contact a week between a student and career and technology education program personnel.

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing career and technology education programs in grades nine through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.

(d) The commissioner shall conduct a cost-benefit comparison between career and technology education programs and mathematics and science programs.

(e) Out of the total statewide allotment for career and technology education under this section, the commissioner shall set aside an amount specified in the General Appropriations Act, which may not exceed an amount equal to one percent of the total amount appropriated, to support regional career and technology education planning. After deducting the amount set aside under this subsection from the total amount appropriated for career and technology education under this section, the commissioner shall reduce each district's tier one allotments in the same manner described for a reduction in allotments under Section 42.253.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 31, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 763 (H.B. 3485), § 5, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 54, effective September 1, 2009.)

Sec. 42.1541. Indirect Cost Allotments.

(a) The State Board of Education shall by rule increase the indirect cost allotments established under Sections 42.151(h), 42.152(c), 42.153(b), and 42.154(a-1) and (c) and in effect for the 2010-2011 school year in proportion to the average percentage reduction in total state and local maintenance and operations revenue provided under this chapter for the 2011-2012 school year as a result of S.B. Nos. 1 and 2, Acts of the 82nd Legislature, 1st Called Session, 2011.

(b) To the extent necessary to permit the board to comply with this section, the limitation on the percentage of the indirect cost allotment prescribed by Section 42.152(c) does not apply.

(c) The board shall take the action required by Subsection (a) not later than the date that permits the increased indirect cost allotments to apply beginning with the 2011-2012 school year.

(Enacted Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.13, effective September 28, 2011.)

Sec. 42.155. Transportation Allotment.

(a) Each district or county operating a transportation system is entitled to allotments for transportation costs as provided by this section.

(b) As used in this section:

(1) "Regular eligible student" means a student who resides two or more miles from the student's campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as a student eligible for special education services.

(2) "Eligible special education student" means a student who is eligible for special education services under Section 29.003 and who would be unable to attend classes without special transportation services.

(3) "Linear density" means the average number of regular eligible students transported daily, divided by the approved daily route miles traveled by the respective transportation system.

(c) Each district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible student of operating and maintaining the regular transportation system and the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district or county. The average actual cost is to be computed by the commissioner and included for consideration by the legislature in the General Appropriations Act. The allotment per mile of approved route may not exceed the amount set by appropriation.

(d) A district or county may apply for and on approval of the commissioner receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(e) The commissioner may grant an amount set by appropriation for private or commercial transpor-

tation for eligible students from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants may be made only in extreme hardship cases. A grant may not be made if the students live within two miles of an approved school bus route.

(f) The cost of transporting career and technology education students from one campus to another inside a district or from a sending district to another secondary public school for a career and technology program or an area career and technology school or to an approved post-secondary institution under a contract for instruction approved by the agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by the board of trustees and approved by the agency.

(g) A school district or county that provides special transportation services for eligible special education students is entitled to a state allocation paid on a previous year's cost-per-mile basis. The maximum rate per mile allowable shall be set by appropriation based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner may grant an amount set by appropriation for private transportation to reimburse parents or their agents for transporting eligible special education students. The mileage allowed shall be computed along the shortest public road from the student's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(h) Funds allotted under this section must be used in providing transportation services.

(i) In the case of a district belonging to a county transportation system, the district's transportation allotment for purposes of determining a district's foundation school program allocations is determined on the basis of the number of approved daily route miles in the district multiplied by the allotment per mile to which the county transportation system is entitled.

(j) The Texas School for the Deaf is entitled to an allotment under this section. The commissioner shall determine the appropriate allotment.

(k) Notwithstanding any other provision of this section, the commissioner may not reduce the allotment to which a district or county is entitled under this section because the district or county provides transportation for an eligible student to and from a child-care facility, as defined by Section 42.002, Human Resources Code, or a grandparent's residence instead of the student's residence, as authorized by Section 34.007, if the transportation is provided within the approved routes of the district or county for the school the student attends.

(*l*) A school district may, with the funds allotted under this section, provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transportation system of the district is not a feasible method of providing transportation. The commissioner by rule shall provide procedures for a school district to provide bus passes or cards to students under this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 17, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 169 (S.B. 833), § 4, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 32, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 352 (H.B. 3506), § 1, effective June 17, 2011.)

Sec. 42.156. Gifted and Talented Student Allotment.

(a) For each identified student a school district serves in a program for gifted and talented students that the district certifies to the commissioner as complying with Subchapter D, Chapter 29, a district is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 42.102 or Section 42.103, as applicable, multiplied by .12 for each school year or a greater amount provided by appropriation.

(b) Funds allocated under this section, other than the amount that represents the program's share of general administrative costs, must be used in providing programs for gifted and talented students under Subchapter D, Chapter 29, including programs sanctioned by International Baccalaureate and Advanced Placement, or in developing programs for gifted and talented students. Each district must account for the expenditure of state funds as provided by rule of the State Board of Education. If by the end of the 12th month after receiving an allotment for developing a program a district has failed to implement a program, the district must refund the amount of the allotment to the agency within 30 days.

(c) Not more than five percent of a district's students in average daily attendance are eligible for funding under this section.

(d) If the amount of state funds for which school districts are eligible under this section exceeds the amount of state funds appropriated in any year for the programs, the commissioner shall reduce each

district's tier one allotments in the same manner described for a reduction in allotments under Section 42.253.

(e) If the total amount of funds allotted under this section before a date set by rule of the State Board of Education is less than the total amount appropriated for a school year, the commissioner shall transfer the remainder to any program for which an allotment under Section 42.152 may be used.

(f) After each district has received allotted funds for this program, the State Board of Education may use up to $500,000 of the funds allocated under this section for programs such as MATHCOUNTS, Future Problem Solving, Odyssey of the Mind, and Academic Decathlon, as long as these funds are used to train personnel and provide program services. To be eligible for funding under this subsection, a program must be determined by the State Board of Education to provide services that are effective and consistent with the state plan for gifted and talented education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.157. Public Education Grant Allotment.

(a) Except as provided by Subsection (b), for each student in average daily attendance who is using a public education grant under Subchapter G, Chapter 29, to attend school in a district other than the district in which the student resides, the district in which the student attends school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 0.1.

(b) The total number of allotments under this section to which a district is entitled may not exceed the number by which the number of students using public education grants to attend school in the district exceeds the number of students who reside in the district and use public education grants to attend school in another district.

(Enacted by Acts 1997, 75th Leg., ch. 722 (H.B. 318), § 5, effective September 1, 1997.)

Sec. 42.158. New Instructional Facility Allotment.

(a) A school district is entitled to an additional allotment as provided by this section for operational expenses associated with opening a new instructional facility.

(b) For the first school year in which students attend a new instructional facility, a school district is entitled to an allotment of $250 for each student in average daily attendance at the facility. For the second school year in which students attend that instructional facility, a school district is entitled to an allotment of $250 for each additional student in average daily attendance at the facility.

(c) For purposes of this section, the number of additional students in average daily attendance at a facility is the difference between the number of students in average daily attendance in the current year at that facility and the number of students in average daily attendance at that facility in the preceding year.

(d) Subject to Subsection (d-1), the amount appropriated for allotments under this section may not exceed $25 million in a school year. If the total amount of allotments to which districts are entitled under this section for a school year exceeds the amount appropriated under this subsection, the commissioner shall reduce each district's allotment under this section in the manner provided by Section 42.253(h).

(d-1) In addition to the appropriation amount described by Subsection (d), the amount of $1 million may be appropriated each school year to supplement the allotment to which a school district is entitled under this section that may be provided using the appropriation amount described by Subsection (d). The commissioner shall first apply the funds appropriated under this subsection to prevent any reduction under Subsection (d) in the allotment for attendance at an eligible high school instructional facility, subject to the maximum amount of $250 for each student in average daily attendance. Any funds remaining after preventing all reductions in amounts due for high school instructional facilities may be applied proportionally to all other eligible instructional facilities, subject to the maximum amount of $250 for each student in average daily attendance.

(e) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of the allotments to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits. A school district that is otherwise ineligible for state aid under this chapter is entitled to receive allotments under this section.

(f) The commissioner may adopt rules necessary to implement this section.

(g) In this section, "instructional facility" has the meaning assigned by Section 46.001.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.14, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 15, effective June 15, 2007.)

Sec. 42.159. State Virtual School Network Allotments [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 61.09, effective September 28, 2011.
(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 56, effective September 1, 2009.)

Sec. 42.160. High School Allotment.

(a) A school district is entitled to an annual allotment of $275 for each student in average daily attendance in grades 9 through 12 in the district.

(b) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of the allotments to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits. A school district that is otherwise ineligible for state aid under this chapter is entitled to receive allotments under this section.

(c) An open-enrollment charter school is entitled to an allotment under this section in the same manner as a school district.

(d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.
(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 56, effective September 1, 2009.)

SUBCHAPTER D
ADMINISTRATIVE COSTS [REPEALED]

Sec. 42.201. Limit on Administrative Costs [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1269 (S.B. 900), § 4, effective September 1, 2003.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER E
FINANCING THE PROGRAM

Sec. 42.251. Financing; General Rule.

(a) **[2 Versions: Effective Until September 1, 2015]** The sum of the regular program allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

(a) **[2 Versions: Effective September 1, 2015]** The sum of the basic program allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

(b) The program shall be financed by:

(1) ad valorem tax revenue generated by an equalized uniform school district effort;

(2) ad valorem tax revenue generated by local school district effort in excess of the equalized uniform school district effort;

(3) state available school funds distributed in accordance with law; and

(4) state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

(c) [Repealed by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(a), effective September 1, 1999.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.15, art. 3, § 3.01(a), effective September 1, 1999; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.14, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.15, effective September 1, 2015.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.2511. Authorization for Certain Districts to Retain Additional State Aid [Expired].

Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 52.01, effective September 1, 2013.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 52.01, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.2512. Additional State Aid for Professional Staff Salaries [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(a)(7), effective September 1, 2009.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.17, effective September 1, 1999.)

Sec. 42.2513. Additional State Aid for Staff Salary Increases.

(a) A school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the sum of:

(1) the product of $500 multiplied by the number of full-time district employees, other than administrators or employees subject to the minimum salary schedule under Section 21.402; and

(2) the product of $250 multiplied by the number of part-time district employees, other than administrators.

(b) A determination by the commissioner under this section is final and may not be appealed.

(c) The commissioner may adopt rules to implement this section.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 4, § 4.10, effective May 31, 2006.)

Sec. 42.2514. Additional State Aid for Tax Increment Financing Payments.

For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.16, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.2515. Additional State Aid for Ad Valorem Tax Credits Under Texas Economic Development Act.

(a) **[2 Versions: Effective Until January 1, 2014]** For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount of all tax credits credited against ad valorem taxes of the district in that year under Subchapter D, Chapter 313, Tax Code.

(a) **[2 Versions: Effective January 1, 2014]** For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount of all tax credits credited against ad valorem taxes of the district in that year under former Subchapter D, Chapter 313, Tax Code.

(b) The commissioner may adopt rules to implement and administer this section.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 6, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 20, effective January 1, 2014.)

Sec. 42.2516. [2 Versions: Effective Until September 1, 2017] Additional State Aid for Tax Reduction.

(a) In this title, "state compression percentage" means the percentage of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding. If the state compression percentage is not established by appropriation for a school year, the commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for distribution under this section for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

(b) Notwithstanding any other provision of this title, a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of:

(1) the percentage specified by Subsection (i) of the amount, as calculated under Subsection (e), of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the percentage specified by Subsection (i) of an amount equal to the product of $120 multiplied by the number of students in weighted average daily attendance in the district; and

(3) any amount to which the district is entitled under Section 42.106.

(b-1) The amount determined for a school district under Subsection (b) is increased or reduced as follows:

(1) if for any school year the district is entitled to a greater allotment under Section 42.155 or 42.158 or more additional state aid under Section 42.2515 than the allotment or additional state aid to which the district was entitled under Section 42.155, 42.158, or 42.2515, as applicable, for the 2009-2010 school year, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Section 42.155, 42.158, or 42.2515, as applicable, for that school year and the amount to which the district was entitled under the applicable section for the 2009-2010 school year; and

(2) if for any school year the district is not entitled to an allotment under Section 42.155 or 42.158 or additional state aid under Section 42.2515 or is entitled to a lesser allotment or less additional state aid under the applicable section than the allotment or additional state aid to which the district was entitled under the applicable section for the 2009-2010 school year, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Section 42.155, 42.158, or 42.2515, as applicable, for the 2009-2010 school year and the amount to which the district is entitled under the applicable section for the current school year.

(b-2) If a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the commissioner shall reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year. The reduction required by this subsection applies beginning with the maintenance and operations tax rate adopted for the 2009 tax year.

(c) Enrichment revenue to which a school district is entitled under Section 42.302 is not included for purposes of determining the amount to which a district is entitled under this section.

(d) In determining the amount to which a district is entitled under Subsection (b)(1), the commissioner shall:

(1) include the percentage specified by Subsection (i) of any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and

(2) for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year.

(e) For purposes of determining the total amount of state and local revenue to which a district is entitled under Subsection (b)(1), the commissioner shall determine the amount of state and local revenue per student in weighted average daily attendance to which the district would have been entitled during the 2009-2010 school year under Chapter 41 and this chapter, as they existed on January 1, 2009, and multiply that amount by the number of students in weighted average daily attendance as determined in accordance with the changes to Chapter 41 and this chapter, including the repeal of former Section 42.103(e), made by H.B. No. 3646, Acts of the 81st Legislature, Regular Session, 2009.

(f) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section may receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D, Chapter 41, or the total number of nonresident students required to be educated under Subchapter E, Chapter 41, as determined by the commissioner.

(f-1) The commissioner shall, in accordance with rules adopted by the commissioner, adjust the amount of a school district's local revenue derived from maintenance and operations tax collections, as calculated for purposes of determining the amount of state revenue to which the district is entitled under this section, if the district, for the 2010 tax year or a subsequent tax year:

(1) adopts an exemption under Section 11.13(n), Tax Code, that was not in effect for the 2009 tax year, or eliminates an exemption under Section 11.13(n), Tax Code, that was in effect for the 2009 tax year;

(2) adopts an exemption under Section 11.13(n), Tax Code, at a greater or lesser percentage than the percentage in effect for the district for the 2009 tax year;

(3) grants an exemption under an agreement authorized by Chapter 312, Tax Code, that was not in effect for the 2009 tax year, or ceases to grant an exemption authorized by that chapter that was in effect for the 2009 tax year; or

(4) agrees to deposit taxes into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan that was not

in effect for the 2009 tax year, or ceases depositing taxes into a tax increment fund created under that chapter under a reinvestment zone financing plan that was in effect for the 2009 tax year.

(f-2) The rules adopted by the commissioner under Subsection (f-1) must:

(1) require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1), (2), (3), or (4) on the total state revenue to which the district would be entitled or the cost to the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b)(1) that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(f-3) An adjustment made by the commissioner under the rules adopted under Subsection (f-1) is final and may not be appealed.

(g) The commissioner may adopt rules necessary to implement this section.

(h) A determination by the commissioner under this section is final and may not be appealed.

(i) The percentage to be applied for purposes of Subsections (b)(1) and (2) and Subsection (d)(1) is 100.00 percent for the 2011-2012 school year and 92.35 percent for the 2012-2013 school year. For the 2013-2014 school year and each subsequent school year, the legislature by appropriation shall establish the percentage reduction to be applied.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.04, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 235 (H.B. 1922), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1191 (H.B. 828), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 57, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 53.01, effective September 28, 2011; am Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.17, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 100 provides: "Section 42.2516(b)(3), Education Code, as amended by this Act, applies as if that subdivision were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a district under that subdivision for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, shall be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code."

Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.2516. [2 Versions: Effective September 1, 2017] State Compression Percentage.

(a) In this title, "state compression percentage" means the percentage of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding. If the state compression percentage is not established by appropriation for a school year, the commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

(b) to (f-3) [Repealed by Acts 2011, 82nd Leg., ch. 4 (S.B. 1), § 57.32(a)(2), effective September 1, 2017.]

(g) The commissioner may adopt rules necessary to implement this section.

(h) A determination by the commissioner under this section is final and may not be appealed.

(i) [Repealed by Acts 2011, 82nd Leg., ch. 4 (S.B. 1), § 57.32(a)(2), effective September 1, 2017.]

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.04, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 235 (H.B. 1922), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1191 (H.B. 828), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 57, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 53.01, 57.17, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 57.18, 57.19, 57.32(a)(2), effective September 1, 2017.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 100 provides: "Section 42.2516(b)(3), Education Code, as amended by this Act, applies as if that subdivision were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a district under that subdivision for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, shall be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code."

Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.25161. [Repealed September 1, 2017] Additional State Aid for South

Texas Independent School District.

(a) The commissioner shall provide South Texas Independent School District with the amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least the percentage specified by Section 42.2516(i) of $120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year under this chapter, as it existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

(b) The commissioner may adopt rules necessary to implement this section.

(c) A determination by the commissioner under this section is final and may not be appealed.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 58, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.20, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.2517. Excess Funds for Cost of Education Adjustment.

(a) If the commissioner determines that the amount appropriated for purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter, the commissioner may:

(1) adjust each district's cost of education adjustment under Section 42.102 to reflect current uncontrollable variations in the cost of education, particularly the cost of providing salaries and benefits to classroom teachers; and

(2) provide funding under this chapter based on the cost of education index adjusted under Subdivision (1).

(b) If the amount available under Subsection (a) is not sufficient to provide funding based on the cost of education index adjusted under Subsection (a)(1), the commissioner shall rank districts by the increase in the cost of education adjustment applicable to each district under this section and shall provide funding under this section to districts in descending order of the amount of increase in the cost of education adjustment applicable to districts under this section, beginning with the district that has the greatest increase in the cost of education adjustment, until no funds are available for purposes of this section.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 33, effective September 1, 2003.)

Sec. 42.252. Local Share of Program Cost (Tier One).

(a) Each school district's share of the Foundation School Program is determined by the following formula:

$$LFA = TR \times DPV$$

where:

"LFA" is the school district's local share;

"TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of the amount equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the lesser of:

(1) $1.50; or

(2) the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"DPV" is the taxable value of property in the school district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code.

(b) The commissioner shall adjust the values reported in the official report of the comptroller as required by Section 5.09(a), Tax Code, to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner is final. An adjustment does not affect the local fund assignment of any other school district.

(c) Appeals of district values shall be held pursuant to Section 403.303, Government Code.

(d) A school district must raise its total local share of the Foundation School Program to be eligible to receive foundation school fund payments.

(e) [Repealed by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(a), effective September 1, 1999.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 18, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 3, § 3.01(a), effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 59, effective September 1, 2009.)

Sec. 42.2521. Adjustment for Rapid Decline in Taxable Value of Property.

(a) For purposes of Chapters 41 and 46 and this chapter, and to the extent money specifically authorized to be used under this section is available, the

commissioner shall adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

(b) To the extent that a sufficient amount of money is not available to fund all adjustments under this section, the commissioner shall reduce adjustments in the manner provided by Section 42.253(h) so that the total amount of adjustments equals the amount of money available to fund the adjustments.

(c) A decision of the commissioner under this section is final and may not be appealed.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.18, effective September 1, 1999.)

Sec. 42.2522. Adjustment for Optional Homestead Exemption.

(a) In any school year, the commissioner may not provide funding under this chapter based on a school district's taxable value of property computed in accordance with Section 403.302(d)(2), Government Code, unless:

(1) funds are specifically appropriated for purposes of this section; or

(2) the commissioner determines that the total amount of state funds appropriated for purposes of the Foundation School Program for the school year exceeds the amount of state funds distributed to school districts in accordance with Section 42.253 based on the taxable values of property in school districts computed in accordance with Section 403.302(d), Government Code, without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code.

(b) In making a determination under Subsection (a)(2), the commissioner shall:

(1) notwithstanding Section 42.253(b), reduce the entitlement under this chapter of a school district whose final taxable value of property is higher than the estimate under Section 42.254 and make payments to school districts accordingly; and

(2) give priority to school districts that, due to factors beyond the control of the board of trustees, experience a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

(c) In the first year of a state fiscal biennium, before providing funding as provided by Subsection (a)(2), the commissioner shall ensure that sufficient appropriated funds for purposes of the Foundation School Program are available for the second year of the biennium, including funds to be used for purposes of Section 42.2521.

(d) If the commissioner determines that the amount of funds available under Subsection (a)(1) or (2) does not at least equal the total amount of state funding to which districts would be entitled if state funding under this chapter were based on the taxable values of property in school districts computed in accordance with Section 403.302(d)(2), Government Code, the commissioner may, to the extent necessary, provide state funding based on a uniform lesser fraction of the deduction under Section 403.302(d)(2), Government Code.

(e) The commissioner shall notify school districts as soon as practicable as to the availability of funds under this section. For purposes of computing a rollback tax rate under Section 26.08, Tax Code, a district shall adjust the district's tax rate limit to reflect assistance received under this section.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.18, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 3, effective September 1, 2001.)

Sec. 42.2523. Adjustment for Property Value Affected by State of Disaster.

(a) For purposes of Chapters 41 and 46 and this chapter, the commissioner shall adjust the taxable value of property of a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, as necessary to ensure that the district receives funding based as soon as possible on property values as affected by the disaster.

(b) The commissioner may fund adjustments under this section using funds specifically appropriated for the purpose or other funds available to the commissioner for that purpose.

(c) **[Repealed September 1, 2017]** Any additional funding to which a school district is entitled as a result of the adjustment required by this section is in addition to the amount of funding to which the district is entitled under Section 42.2516(b).

(d) A decision of the commissioner under this section is final and may not be appealed.

(Enacted by Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 5, effective June 19, 2009.)

Sec. 42.2524. Reimbursement for Disaster Remediation Costs.

(a) This section applies only to a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) During the two-year period following the date of the governor's initial proclamation or executive

order declaring a state of disaster, a district may apply to the commissioner for reimbursement of disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement.

(b-1) [Expired pursuant to Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 5, effective September 1, 2011.]

(c) The commissioner may provide reimbursement under this section only if funds are available for that purpose as follows:

(1) reimbursement for a school district not required to take action under Chapter 41 may be provided from:

(A) amounts appropriated for that purpose, including amounts appropriated for those districts for that purpose to the disaster contingency fund established under Section 418.073, Government Code; or

(B) Foundation School Program funds available for that purpose, based on a determination by the commissioner that the amount appropriated for the Foundation School Program, including the facilities component as provided by Chapter 46, exceeds the amount to which districts are entitled under this chapter and Chapter 46; and

(2) reimbursement for a school district required to take action under Chapter 41 may be provided from funds described by Subdivision (1)(B) if funds remain available after fully reimbursing each school district described by Subdivision (1) for its disaster remediation costs.

(d) If the amount of money available for purposes of reimbursing school districts not required to take action under Chapter 41 is not sufficient to fully reimburse each district's disaster remediation costs, the commissioner shall reduce the amount of assistance provided to each of those districts proportionately. If the amount of money available for purposes of reimbursing school districts required to take action under Chapter 41 is not sufficient to fully reimburse each district's disaster remediation costs, the commissioner shall reduce the amount of assistance provided to each of those districts proportionately.

(e) A district seeking reimbursement under this section must provide the commissioner with adequate documentation of the costs for which the district seeks reimbursement.

(f) A district required to take action under Chapter 41:

(1) may, at its discretion, receive assistance provided under this section either as a payment of state aid under this chapter or as a reduction in the total amount required to be paid by the district for attendance credits under Section 41.093; and

(2) may not obtain reimbursement under this section for the payment of any disaster remediation costs that resulted in a reduction under Section 41.0931 of the district's cost of attendance credits.

(g) **[Repealed September 1, 2017]** Amounts provided to a district under this section are in addition to the amount to which the district is entitled under Section 42.2516.

(h) The commissioner shall adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (e).

(i) Notwithstanding any other provision of this section, the commissioner may permit a district to use amounts provided to a district under this section to pay the costs of replacing a facility instead of repairing the facility. The commissioner shall ensure that a district that elects to replace a facility does not receive an amount under this section that exceeds the lesser of:

(1) the amount that would be provided to the district if the facility were repaired; or

(2) the amount necessary to replace the facility.

(j) This section does not require the commissioner to provide any requested reimbursement. A decision of the commissioner regarding reimbursement is final and may not be appealed.

(Enacted by Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 5, effective June 19, 2009.)

Sec. 42.2525. Adjustments for Certain Districts Receiving Federal Impact Aid.

The commissioner is granted the authority to ensure that school districts receiving federal impact aid due to the presence of a military installation or significant concentrations of military students do not receive more than an eight percent reduction should the federal government reduce appropriations to those schools.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.21, effective September 28, 2011.)

Sec. 42.2526. [Expires September 1, 2023] Adjustment for District Operating Pilot Program.

(a) This section applies only to a school district operating a pilot program authorized by Section 28.0255.

(b) Beginning with the first school year that follows the first school year in which students receive

high school diplomas under the pilot program authorized by Section 28.0255 and continuing for every subsequent school year that the district operates the pilot program, the commissioner shall provide funding for the district's prekindergarten program under Section 29.153 on a full-day basis for a number of prekindergarten students equal to twice the number of students who received a high school diploma under the pilot program authorized by Section 28.0255 during the preceding school year.

(c) This section expires September 1, 2023.

(Enacted by Acts 2013, 83rd Leg., ch. 660 (H.B. 1122), § 2, effective September 1, 2013.)

Sec. 42.253. Distribution of Foundation School Fund.

(a) For each school year the commissioner shall determine:

(1) the amount of money to which a school district is entitled under Subchapters B and C;

(2) the amount of money to which a school district is entitled under Subchapter F;

(3) the amount of money allocated to the district from the available school fund;

(4) the amount of each district's tier one local share under Section 42.252; and

(5) the amount of each district's tier two local share under Section 42.302.

(b) Except as provided by this subsection, the commissioner shall base the determinations under Subsection (a) on the estimates provided to the legislature under Section 42.254, or, if the General Appropriations Act provides estimates for that purpose, on the estimates provided under that Act, for each school district for each school year. The commissioner shall reduce the entitlement of each district that has a final taxable value of property for the second year of a state fiscal biennium that is higher than the estimate under Section 42.254 or the General Appropriations Act, as applicable. A reduction under this subsection may not reduce the district's entitlement below the amount to which it is entitled at its actual taxable value of property.

(c) Each school district is entitled to an amount equal to the difference for that district between the sum of Subsections (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and (a)(5).

(c-1) **[Repealed September 1, 2017]** The amounts to be paid under Section 42.2516(b)(3) shall be paid at the same time as other state revenue is paid to the district. Payments shall be based on amounts paid under Section 42.2516(b)(3) for the preceding year. Any deficiency shall be paid to the district at the same time the final amount to be paid to the district is determined, and any overpayment shall be deducted from the payments the district would otherwise receive in the following year.

(d) The commissioner shall approve warrants to each school district equaling the amount of its entitlement except as provided by this section. Warrants for all money expended according to this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner that warrants for state payments are transmitted. The total amount of the warrants issued under this section may not exceed the total amount appropriated for Foundation School Program purposes for that fiscal year.

(e), (e-1) [Repealed by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.20, effective May 31, 2006.]

(e-2) [Expired pursuant to Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 1.19, effective September 1, 2001.]

(f) [Repealed by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.20, effective May 31, 2006.]

(g) If a school district demonstrates to the satisfaction of the commissioner that the estimate of the district's tax rate, student enrollment, or taxable value of property used in determining the amount of state funds to which the district is entitled are so inaccurate as to result in undue financial hardship to the district, the commissioner may adjust funding to that district in that school year to the extent that funds are available for that year.

(h) **[2 Versions: Effective until September 1, 2017]** If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts and open-enrollment charter schools are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust the total amounts due to each school district and open-enrollment charter school under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 by an amount determined by applying to each district and school, including a district receiving funds under Section 42.2516, the same percentage adjustment to the total amount of state and local revenue due to the district or school under this chapter and Chapter 41 so that the total amount of the adjustment to all

districts and schools results in an amount equal to the total adjustment necessary. The following fiscal year:

(1) a district's or school's entitlement under this section is increased by an amount equal to the adjustment made under this subsection; and

(2) the amount necessary for a district to comply with the requirements of Chapter 41 is reduced by an amount necessary to ensure the district's full recovery of the adjustment made under this subsection.

(h) **[2 Versions: Effective September 1, 2017]** If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts and open-enrollment charter schools are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust the total amounts due to each school district and open-enrollment charter school under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 by an amount determined by applying to each district and school the same percentage adjustment to the total amount of state and local revenue due to the district or school under this chapter and Chapter 41 so that the total amount of the adjustment to all districts and schools results in an amount equal to the total adjustment necessary. The following fiscal year:

(1) a district's or school's entitlement under this section is increased by an amount equal to the adjustment made under this subsection; and

(2) the amount necessary for a district to comply with the requirements of Chapter 41 is reduced by an amount necessary to ensure a district's full recovery of the adjustment made under this subsection.

(i) Not later than March 1 each year, the commissioner shall determine the actual amount of state funds to which each school district is entitled under the allocation formulas in this chapter for the current school year and shall compare that amount with the amount of the warrants issued to each district for that year. If the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, the commissioner shall adjust the district's entitlement for the next fiscal year accordingly.

(j) The legislature may appropriate funds necessary for increases under Subsection (i) from funds that the comptroller, at any time during the fiscal year, finds are available.

(k) The commissioner shall compute for each school district the total amount by which the district's allocation of state funds is increased or reduced under Subsection (i) and shall certify that amount to the district.

(*l*) [Repealed by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.20, effective May 31, 2006.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 19, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.19, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 2, § 2.06, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 34, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), §§ 1.05, 1.20, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 60, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.22, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.23, effective September 1, 2017.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.2531. Adjustment by Commissioner.

(a) The commissioner may make adjustments to amounts due to a school district under this chapter or Chapter 46, or to amounts necessary for a district to comply with the requirements of Chapter 41, as provided by this section.

(b) A school district that has a major taxpayer, as determined by the commissioner, that because of a protest of the valuation of the taxpayer's property fails to pay all or a portion of the ad valorem taxes due to the district may apply to the commissioner to have the district's taxable value of property or ad valorem tax collections adjusted for purposes of this chapter or Chapter 41 or 46. The commissioner may make the adjustment only to the extent the commissioner determines that making the adjustment will not:

(1) in the fiscal year in which the adjustment is made, cause the amount to which school districts are entitled under this chapter to exceed the amount appropriated for purposes of the Foundation School Program for that year; and

(2) if the adjustment is made in the first year of a state fiscal biennium, cause the amount to which school districts are entitled under this chapter for the second year of the biennium to exceed the amount appropriated for purposes of the Foundation School Program for that year.

(c) The commissioner shall recover the benefit of any adjustment made under this section by making offsetting adjustments in the school district's taxable value of property or ad valorem tax collections for purposes of this chapter or Chapter 41 or 46 on a final determination of the taxable value of property that was the basis of the original adjustment, or in the second school year following the year in which the adjustment is made, whichever is earlier.

(d) This section does not require the commissioner to make any requested adjustment. A determination by the commissioner under this section is final and may not be appealed.

(Enacted by Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 5, effective September 1, 2001.)

Sec. 42.254. Estimates Required.

(a) Not later than October 1 of each even-numbered year:

(1) the agency shall submit to the legislature an estimate of the tax rate and student enrollment of each school district for the following biennium; and

(2) the comptroller shall submit to the legislature an estimate of the total taxable value of all property in the state as determined under Subchapter M, Chapter 403, Government Code, for the following biennium.

(b) The agency and the comptroller shall update the information provided to the legislature under Subsection (a) not later than March 1 of each odd-numbered year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 20, effective September 1, 1997.)

Sec. 42.255. Falsification of Records; Report.

When, in the opinion of the agency's director of school audits, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, through which the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, the director shall promptly and fully report the fact to the State Board of Education, the state auditor, and the appropriate county attorney, district attorney, or criminal district attorney.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.256. Foundation School Fund Budget Committee [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 30, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.257. Effect of Appraisal Appeal.

(a) If the final determination of an appeal under Chapter 42, Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Subchapter M, Chapter 403, Government Code, the commissioner shall request the comptroller to adjust its taxable property value findings for that year consistent with the final determination of the appraisal appeal.

(b) If the district would have received a greater amount from the foundation school fund for the applicable school year using the adjusted value, the commissioner shall add the difference to subsequent distributions to the district from the foundation school fund. An adjustment does not affect the local fund assignment of any other district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.258. Recovery of Overallocated Funds.

(a) If a school district has received an overallocation of state funds, the agency shall, by withholding from subsequent allocations of state funds for the current or subsequent school year or by requesting and obtaining a refund, recover from the district an amount equal to the overallocation.

(a-1) Notwithstanding Subsection (a), the agency may recover an overallocation of state funds over a period not to exceed the subsequent five school years if the commissioner determines that the overallocation was the result of exceptional circumstances reasonably caused by statutory changes to Chapter 41 or 46 or this chapter and related reporting requirements.

(b) If a district fails to comply with a request for a refund under Subsection (a), the agency shall certify

to the comptroller that the amount constitutes a debt for purposes of Section 403.055, Government Code. The agency shall provide to the comptroller the amount of the overallocation and any other information required by the comptroller. The comptroller may certify the amount of the debt to the attorney general for collection.

(c) Any amounts recovered under this section shall be deposited in the foundation school fund.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.24, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.259. Foundation School Fund Transfers.

(a) In this section:

(1) "Category 1 school district" means a school district having a wealth per student of less than one-half of the statewide average wealth per student.

(2) "Category 2 school district" means a school district having a wealth per student of at least one-half of the statewide average wealth per student but not more than the statewide average wealth per student.

(3) "Category 3 school district" means a school district having a wealth per student of more than the statewide average wealth per student.

(4) "Wealth per student" means the taxable property values reported by the comptroller to the commissioner under Section 42.252 divided by the number of students in average daily attendance.

(b) Payments from the foundation school fund to each category 1 school district shall be made as follows:

(1) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 80 percent of the yearly entitlement of the district shall be paid in eight equal installments to be made on or before the 25th day of October, November, December, January, March, May, June, and July; and

(3) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of February.

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.

(c-1) [Expired pursuant to Acts 2013, 83rd Leg., ch. 1410 (S.B. 758), § 1, effective August 31, 2013.]

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(3) 20 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.

(d-1) [Expired pursuant to Acts 2013, 83rd Leg., ch. 1410 (S.B. 758), § 1, effective August 31, 2013.]

(e) The amount of any installment required by this section may be modified to provide a school district with the proper amount to which the district may be entitled by law and to correct errors in the allocation or distribution of funds. If an installment under this section is required to be equal to other installments, the amount of other installments may be adjusted to provide for that equality. A payment under this section is not invalid because it is not equal to other installments.

(f) Previously unpaid additional funds from prior fiscal years owed to a district shall be paid to the district together with the September payment of the current fiscal year entitlement.

(g) The commissioner shall make all annual Foundation School Program payments under this section for purposes described by Sections 45.252(a)(1) and (2) before the deadline established under Section 45.263(b) for payment of debt service on bonds. Notwithstanding any other provision of this section, the commissioner may make Foundation School Program payments under this section after the deadline established under Section 45.263(b) only if the commissioner has not received notice under Section 45.258 concerning a district's failure or inability to pay matured principal or interest on bonds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 426 (S.B. 1128), § 31, effective June 9, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 6, § 6.03, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 35, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 4, effective June 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.06, effective August 1, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 61, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 1.01, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1410 (S.B. 758), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 1.03 provides: "The changes made by this article to Section 42.259, Education Code, apply only to a payment from the foundation school fund that is made on or after the effective date of this Act [September 28, 2011]. A payment to a school district from the foundation school fund that is made before that date is governed by Section 42.259, Education Code, as it existed before amendment by this article, and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1410 (S.B. 758), § 3 provides: "The changes made by this Act to Section 42.259, Education Code, apply only to a payment from the foundation school fund that is made on or after the effective date of this Act [June 14, 2013]. A payment to a school district from the foundation school fund that is made before that date is governed by Section 42.259, Education Code, as it existed before amendment by this Act, and the former law is continued in effect for that purpose."

Sec. 42.2591. Use of Certain Funds [Expired].

Expired pursuant to Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), § 2.07, effective September 1, 2002.

(Enacted by Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 2, § 2.07, effective September 1, 2001.)

Sec. 42.260. Use of Certain Funds.

(a) In this section, "participating charter school" means an open-enrollment charter school that participates in the uniform group coverage program established under Chapter 1579, Insurance Code.

(b) For each year, the commissioner shall certify to each school district or participating charter school the amount of additional funds to which the district or school is entitled due to the increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to:

(1) the equalized wealth level under Section 41.002; or

(2) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

(c) Notwithstanding any other provision of this code, a school district or participating charter school may use the following amount of funds only to pay contributions under a group health coverage plan for district or school employees:

(1) an amount equal to 75 percent of the amount certified for the district or school under Subsection (b); or

(2) if the following amount is less than the amount specified by Subdivision (1), the sum of:

(A) the amount determined by multiplying the amount of $900 or the amount specified in the General Appropriations Act for that year for purposes of the state contribution under Section 9, Article 3.50-7, Insurance Code, by the number of district or school employees who participate in a group health coverage plan provided by or through the district or school; and

(B) the difference between the amount necessary for the district or school to comply with Section 3, Article 3.50-9, Insurance Code, for the school year and the amount the district or school is required to use to provide health coverage under Section 2 of that article for that year.

(d) A determination by the commissioner under this section is final and may not be appealed.

(e) The commissioner may adopt rules to implement this section.

(Enacted by Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 2, § 2.08, effective September 1, 2002; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 62, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.25, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.261. [Repealed September 1, 2017] Certain Funds Appropriated for Purpose of Tax Reduction.

(a) Funds appropriated by the legislature for a tax year for the purpose of reducing a school dis-

trict's maintenance and operations tax rate and providing state aid under Section 42.2516:

(1) are not excess funds for purposes of Section 42.2517;

(2) are not available for purposes of Section 42.2521 or 42.2522;

(3) may not be used for purposes of Chapter 46; and

(4) may not be provided by the commissioner to a school district for a purpose other than reduction of the district's maintenance and operations tax rate.

(b) The commissioner may adopt rules necessary to administer this section.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.07, effective May 31, 2006.)

SUBCHAPTER F
GUARANTEED YIELD PROGRAM

Sec. 42.301. Purpose.

The purpose of the guaranteed yield component of the Foundation School Program is to provide each school district with the opportunity to provide the basic program and to supplement that program at a level of its own choice. An allotment under this subchapter may be used for any legal purpose other than capital outlay or debt service.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.20, effective September 1, 1999.)

Sec. 42.302. Allotment.

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

GYA = (GL X WADA X DTR X 100) — LR

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is an amount described by Subsection (a-1) or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158 or 42.160, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

(a-1) In this section, "wealth per student" has the meaning assigned by Section 41.001. For purposes of Subsection (a), the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") for a school district is:

(1) the greater of the amount of district tax revenue per weighted student per cent of tax effort that would be available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, if the reduction of the limitation on tax increases as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, did not apply, or the amount of district tax revenue per weighted student per cent of tax effort used for purposes of this subdivision in the preceding school year, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

(2) $31.95, for the district's maintenance and operations tax effort that exceeds the amount of tax effort described by Subdivision (1).

(a-2) The limitation on district enrichment tax rate ("DTR") under Section 42.303 does not apply to the district's maintenance and operations tax effort described by Subsection (a-1)(1).

(a-3) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.08, effective September 1, 2012.]

(a-4) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.08, effective September 1, 2009.]

(b) In computing the district enrichment tax rate of a school district, the total amount of maintenance

and operations taxes collected by the school district does not include the amount of:

(1) the district's local fund assignment under Section 42.252; or

(2) taxes paid into a tax increment fund under Chapter 311, Tax Code.

(c) For purposes of this section, school district taxes for which credit is granted under Section 31.035, 31.036, or 31.037, Tax Code, are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

(d) For purposes of this section, the total amount of maintenance and operations taxes collected for an applicable school year by a school district with alternate tax dates, as authorized by Section 26.135, Tax Code, is the amount of taxes collected on or after January 1 of the year in which the school year begins and not later than December 31 of the same year.

(e) **[2 Versions: Effective Until January 1, 2014]** For purposes of this section, school district taxes for which credit is granted under Subchapter D, Chapter 313, Tax Code, are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

(e) **[2 Versions: Effective January 1, 2014]** For purposes of this section, school district taxes for which credit is granted under former Subchapter D, Chapter 313, Tax Code, are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

(f) If a school district imposes a maintenance and operations tax at a rate greater than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the district is entitled to receive an allotment under this section on the basis of that greater tax effort.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 21, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.20, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 637 (H.B. 51), § 3, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 320 (H.B. 1532), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 2, § 2.09, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), art. 2, § 2.10, effective September 1, 2002; am. Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 8, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(21), effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.08, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 19 (H.B. 5), § 3, effective May 12, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 63, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 57.26, 61.08, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 21, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 56.01(a) provides: "This section applies only to a school district that, before May 1, 2011, received from the commissioner of education a notice of a reduction in state funding for the 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years based on the district's reporting related to deposits of taxes into a tax increment fund under Chapter 311, Tax Code."

Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.35 provides: "Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year."

Sec. 42.303. Limitation on Enrichment Tax Rate.

The district enrichment tax rate ("DTR") under Section 42.302 may not exceed the amount per $100 of valuation by which the maximum rate permitted under Section 45.003 exceeds the rate used to determine the district's local share under Section 42.252, or a greater amount for any year provided by appropriation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 21, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.20, effective September 1, 1999; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.09, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 64, effective September 1, 2009.)

Sec. 42.304. Computation of Aid for District on Military Reservation or at State School.

State assistance under this subchapter for a school district located on a federal military installation or at Moody State School is computed using the average tax rate and property value per student of school districts in the county, as determined by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER G
SCHOOL FACILITIES INVENTORY AND STANDARDS

Sec. 42.351. Inventory of School Facilities [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 30, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.352. Standards.

The State Board of Education shall establish standards for adequacy of school facilities. The standards shall include requirements related to space, educational adequacy, and construction quality. All facilities constructed after September 1, 1992, must meet the standards in order to be financed with state or local tax funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER H
SCHOOL FACILITIES ASSISTANCE PROGRAM

Sec. 42.401. Definitions [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.402. District Eligibility [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.403. Amount of State Assistance [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.404. Supplemental State Assistance for Small School Districts [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.405. Progect Eligibility and Approval [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.406. Limitation on Assistance [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.407. Shortage of Appropriated Funds [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.408. Use of Excess Appropriated Funds [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.409. Payment of State Assistance [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.410. Additional State Assistance [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 42.4101. Additional Assistance for Districts with Students Using Public Education Grants.

(a) A district is entitled to additional assistance under this section as provided by Section 29.203(c).

(b) The amount of additional assistance under this section is computed by subtracting the number of students residing in the district and using public education grants to attend school in another district for the year in which the assistance is granted from the number of students using public education grants to attend school in the district for that year and multiplying the difference by $266.

(c) If a district to which this section applies is entitled to the maximum amount of assistance under Section 42.406, the maximum is increased by the amount of additional assistance to which the district is entitled under this section.

(Enacted by Acts 1997, 75th Leg., ch. 722 (H.B. 318), § 6, effective September 1, 1997.)

Sec. 42.411. Projects by More Than One District [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.08, effective September 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER I
COMPREHENSIVE REVIEW OF PUBLIC SCHOOL FINANCE WEIGHTS, ALLOTMENTS, AND ADJUSTMENTS [EXPIRED]

Sec. 42.451. Select Committee on Public School Finance Weights, Allotments, and Adjustments [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.452. Committee Meetings [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.453. Compensation and Reimbursement [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.454. Committee Staff [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.455. Conduct of Review [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.4551. Additional Duties [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.456. Report [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

Sec. 42.457. Expiration [Expired].

Expired pursuant to Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective January 11, 2011. (Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 65, effective September 1, 2009.)

CHAPTER 43
PERMANENT SCHOOL FUND AND AVAILABLE SCHOOL FUND

Section

Sec. 43.001. Composition of Permanent School Fund and Available School Fund.

(a) Except as provided by Subsection (b), the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of:

(1) all land appropriated for the public schools by the constitution and laws of this state;

(2) all of the unappropriated public domain remaining in this state, including all land recov-

ered by the state by suit or otherwise except pine forest land as defined by Section 88.111;

(3) all proceeds from the authorized sale of permanent school fund land;

(4) all proceeds from the lawful sale of any other properties belonging to the permanent school fund;

(5) all investments authorized by Section 43.003 of properties belonging to the permanent school fund; and

(6) all income from the mineral development of permanent school fund land, including income from mineral development of riverbeds and other submerged land.

(b) The available school fund, which shall be apportioned annually to each county according to its scholastic population, consists of:

(1) the distributions to the fund from the permanent school fund as provided by Section 5(a), Article VII, Texas Constitution;

(2) one-fourth of all revenue derived from all state occupation taxes, exclusive of delinquencies and cost of collection;

(3) one-fourth of revenue derived from state gasoline and special fuels excise taxes as provided by law; and

(4) all other appropriations to the available school fund made by the legislature for public school purposes.

(c) The term "scholastic population" in Subsection (b) or any other law governing the apportionment, distribution, and transfer of the available school fund means all students of school age enrolled in average daily attendance the preceding school year in the public elementary and high school grades of school districts within or under the jurisdiction of a county of this state.

(d) Each year the State Board of Education shall set aside an amount equal to 50 percent of the annual distribution for that year from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, to be placed, subject to the General Appropriations Act, in the state instructional materials fund established under Section 31.021.

(e) to (g) [Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 66, effective September 1, 2013.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 36, effective June 10, 2003; am. Acts 2003, 78th Leg., ch. 328 (S.B. 206), § 2, effective January 1, 2004; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), §§ 65, 66, effective July 19, 2011.)

Sec. 43.002. Transfers from Permanent School Fund and General Revenue Fund to Available School Fund.

(a) On the first working day of each month in a state fiscal year, the comptroller shall transfer from the permanent school fund to the available school fund an amount equal to one-twelfth of the annual distribution from the permanent school fund to the available school fund as provided by Section 5(a), Article VII, Texas Constitution, for the fiscal year.

(a-1), (a-2) [Expired pursuant to Acts 2003, 78th Leg., ch. 328 (S.B. 206), § 3, effective September 1, 2004.]

(b) Of the amounts available for transfer from the general revenue fund to the available school fund for the months of January and February of each fiscal year, no more than the amount necessary to enable the comptroller to distribute from the available school fund an amount equal to 9-½ percent of the estimated annual available school fund apportionment to category 1 school districts, as defined by Section 42.259, and 3-½ percent of the estimated annual available school fund apportionment to category 2 school districts, as defined by Section 42.259, may be transferred from the general revenue fund to the available school fund. Any remaining amount that would otherwise be available for transfer for the months of January and February shall be transferred from the general revenue fund to the available school fund in equal amounts in June and in August of the same fiscal year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 328 (S.B. 206), § 3, effective January 1, 2004.)

Sec. 43.003. Investment of Permanent School Fund.

In compliance with this section, the State Board of Education may invest the permanent school fund in the types of securities, which must be carefully examined by the State Board of Education and be found to be safe and proper investments for the fund as specified below:

(1) securities, bonds, or other obligations issued, insured, or guaranteed in any manner by the United States Government or any of its agencies and in bonds issued by this state;

(2) obligations and pledges of The University of Texas;

(3) corporate bonds, debentures, or obligations of United States corporations of at least "A" rating;

(4) obligations of United States corporations that mature in less than one year and are of the highest rating available at the time of investment;

(5) bonds issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank of Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation;

(6) bonds of counties, school districts, municipalities, road precincts, drainage, irrigation, navigation, and levee districts in this state, subject to the following requirements:

(A) the securities, before purchase, must have been diligently investigated by the attorney general both as to form and as to legal compliance with applicable laws;

(B) the attorney general's certificate of validity procured by the party offering the bonds, obligations, or pledges must accompany the securities when they are submitted for registration to the comptroller, who must preserve the certificates;

(C) the public securities, if purchased, and when certified and registered as specified under Paragraph (B), are incontestable unless issued fraudulently or in violation of a constitutional limitation, and the certificates of the attorney general are prima facie evidence of the validity of the bonds and bond coupons; and

(D) after the issuing political subdivision has received the proceeds from the sales of the securities, the issuing agency is estopped to deny their validity, and the securities are valid and binding obligations;

(7) preferred stocks and common stocks that the State Board of Education considers proper investments for the permanent school fund, subject to the following requirements:

(A) in making all of those investments, the State Board of Education shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital;

(B) the company issuing the stock must be incorporated in the United States, and the stocks must have paid dividends for five consecutive years or longer immediately before the date of purchase and the stocks, except for bank stocks and insurance stocks, must be listed on an exchange registered with the Securities and Exchange Commission or its successors; and

(C) not more than one percent of the permanent school fund may be invested in stock issued by one corporation and not more than five percent of the voting stock of any one corporation will be owned; and

(8) notwithstanding any other law or provision of this code, first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, or in any other first lien real estate mortgage securities guaranteed in whole or in part by the United States.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.0031. Permanent School Fund Ethics Policy.

(a) In addition to any other requirements provided by law, the State Board of Education shall adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment of the permanent school fund. The ethics policy must include provisions that address the following issues as they apply to the management and investment of the permanent school fund and to persons responsible for managing and investing the fund:

(1) general ethical standards;

(2) conflicts of interest;

(3) prohibited transactions and interests;

(4) the acceptance of gifts and entertainment;

(5) compliance with applicable professional standards;

(6) ethics training; and

(7) compliance with and enforcement of the ethics policy.

(b) The ethics policy must include provisions applicable to:

(1) members of the State Board of Education;

(2) the commissioner;

(3) employees of the agency; and

(4) any person who provides services to the board relating to the management or investment of the permanent school fund.

(c) Not later than the 45th day before the date on which the board intends to adopt a proposed ethics policy or an amendment to or revision of an adopted ethics policy, the board shall submit a copy of the proposed policy, amendment, or revision to the Texas Ethics Commission and the state auditor for review and comments. The board shall consider any comments from the commission or state auditor before adopting the proposed policy.

(d) The provisions of the ethics policy that apply to a person who provides services to the board relating to the management or investment of the permanent school fund must be based on the Code of Ethics and the Standards of Professional Conduct

prescribed by the Association for Investment Management and Research or other ethics standards adopted by another appropriate professionally recognized entity.

(e) The board shall ensure that applicable provisions of the ethics policy are included in any contract under which a person provides services to the board relating to the management and investment of the permanent school fund.

(Enacted by Acts 1999, 76th Leg., ch. 1488 (H.B. 3739), § 1, effective September 1, 1999.)

Sec. 43.0032. Conflicts of Interest.

(a) A member of the State Board of Education, the commissioner, an employee of the agency, or a person who provides services to the board that relate to the management or investment of the permanent school fund who has a business, commercial, or other relationship that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the fund shall disclose the relationship in writing to the board.

(b) The board or the board's designee shall, in the ethics policy adopted under Section 43.0031, define the kinds of relationships that may create a possible conflict of interest.

(c) A person who files a statement under Subsection (a) disclosing a possible conflict of interest may not give advice or make decisions about a matter affected by the possible conflict of interest unless the board, after consultation with the general counsel of the agency, expressly waives this prohibition. The board may delegate the authority to waive the prohibition established by this subsection.

(Enacted by Acts 1999, 76th Leg., ch. 1488 (H.B. 3739), § 1, effective September 1, 1999.)

Sec. 43.0033. Reports of Expenditures.

A consultant, advisor, broker, or other person providing services to the State Board of Education relating to the management and investment of the permanent school fund shall file with the board regularly, as determined by the board, a report that describes in detail any expenditure of more than $50 made by the person on behalf of:

(1) a member of the board;

(2) the commissioner; or

(3) an employee of the agency or of a nonprofit corporation created under Section 43.006.

(Enacted by Acts 1999, 76th Leg., ch. 1488 (H.B. 3739), § 1, effective September 1, 1999.)

Sec. 43.0034. Forms; Public Information.

(a) The board shall prescribe forms for:

(1) statements of possible conflicts of interest and waivers of possible conflicts of interest under Section 43.0032; and

(2) reports of expenditures under Section 43.0033.

(b) A statement, waiver, or report described by Subsection (a) is public information.

(c) The board shall designate an employee of the agency to act as custodian of statements, waivers, and reports described by Subsection (a) for purposes of public disclosure.

(Enacted by Acts 1999, 76th Leg., ch. 1488 (H.B. 3739), § 1, effective September 1, 1999.)

Sec. 43.004. Written Investment Objectives; Performance Evaluation.

(a) The State Board of Education shall develop written investment objectives concerning the investment of the permanent school fund. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

(b) The board shall employ a well-recognized performance measurement service to evaluate and analyze the investment results of the permanent school fund. The service shall compare investment results with the written investment objectives developed by the board, and shall also compare the investment of the permanent school fund with the investment of other public and private funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.005. External Investment Managers.

(a) The State Board of Education may contract with private professional investment managers to assist the board in making investments of the permanent school fund. A contract under this subsection must be approved by the board or otherwise entered into in accordance with board rules relating to contracting authority.

(b) The State Board of Education by rule may delegate a power or duty relating to the investment of the permanent school fund to a committee, officer, employee, or other agent of the board.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.0051. Transfers to Real Estate Special Fund Account of the Permanent School Fund.

The State Board of Education may transfer funds from the portion of the permanent school fund managed by the State Board of Education to the real estate special fund account of the permanent school fund if the State Board of Education determines, using the standard of care set forth in Subsection (f), Section 5, Article VII, Texas Constitution, that such transfer is in the best interest of the permanent school fund.

(Enacted by Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), § 9, effective June 15, 2007.)

Sec. 43.006. Investment Management.

(a) The State Board of Education may delegate investment authority for the investment of the permanent school fund to the same extent as an institution with respect to an institutional fund under Chapter 163, Property Code.

(b) The board may enter into a contract with a nonprofit corporation for the corporation to invest funds under the control and management of the board, including the permanent school fund, as designated by the board. The corporation may not engage in any business other than investing funds designated by the board under the contract.

(c) The board must approve the:

(1) articles of incorporation and bylaws of the corporation and any amendment to the articles of incorporation or bylaws;

(2) investment policies of the corporation, including changes to those policies;

(3) audit and ethics committee of the corporation; and

(4) code of ethics of the corporation.

(d) The board of directors of the corporation must be members of the State Board of Education.

(e) If an investment contract entered into under Subsection (b) includes the permanent school fund within the scope of funds under the control and management of the State Board of Education to be invested by the corporation, the board shall provide for an annual financial audit of the permanent school fund. Subject to the legislative audit committee's approval of including the audit in the audit plan under Section 321.013(c), Government Code, the audit shall be performed by the state auditor.

(f) The corporation shall file quarterly reports with the State Board of Education concerning matters required by the board.

(g) The corporation is subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(h) The corporation may not enter into an agreement or transaction with a:

(1) director, officer, or employee of the corporation acting in other than an official capacity on behalf of the corporation;

(2) business entity in which a director, officer, or employee of the corporation has an interest;

(3) former director, officer, or employee of the corporation on or before the second anniversary of the date the person ceased to be a director, officer, or employee of the corporation; or

(4) business entity in which a former director, officer, or employee of the corporation has an interest on or before the second anniversary of the date the person ceased to be a director, officer, or employee of the corporation.

(i) An agreement or transaction entered into in violation of Subsection (h) is void.

(j) For purposes of this section, a person has an interest in a business entity if:

(1) the person owns five percent or more of the voting stock or shares of the business entity;

(2) the person owns five percent or more of the fair market value of the business entity; or

(3) money received by the person from the business entity exceeds five percent of the person's gross income for the preceding calendar year.

(k) In this section, "institution" and "institutional fund" have the meanings assigned by Chapter 163, Property Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 58, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 834 (H.B. 860), § 2, effective September 1, 2007.)

Sec. 43.007. Purchase and Sale or Exchange of Securities.

(a) The State Board of Education may authorize the purchase of all of the types of securities in which it is authorized by law to invest the permanent school fund in either registered or negotiable form. The board may authorize the reissue of those securities held at any time for the account of the permanent school fund in either registered or negotiable form. The State Board of Education may authorize the sale of any of the securities held for the account of the permanent school fund and reinvest the proceeds of sale for the fund and may authorize the exchange of any of the securities held for the account of the permanent school fund.

(b) In making purchases, sales, exchanges, and reissues, the State Board of Education shall exercise

the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(c) When any securities are sold, reissued, or exchanged as provided by Subsection (a), the custodian of the securities shall deliver the securities sold, reissued, or exchanged in accordance with the directions of the State Board of Education.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.008. Treatment of Premium and Discount [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 328 (S.B. 206), § 11, effective January 1, 2004.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 141 (S.B. 409), § 1, effective September 1, 1995.)

Sec. 43.009. Prepayment of Certain Bonds Held by the Permanent School Fund.

(a) The State Board of Education may authorize the governing body of any political subdivision in this state to pay off and discharge, at any interest paying date whether the bonds are matured or not, all or any part of any outstanding bond indebtedness owned by the permanent school fund.

(b) The governing body of a political subdivision desiring to pay off and discharge any bonded indebtedness owned by the fund shall apply in writing to the State Board of Education, not later than the 30th day before any interest paying date on the bonds, describing the bonds or part of the bonds it desires to pay off and discharge. The application must be accompanied by an affidavit stating that only tax money collected from a tax levy made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed will be spent in redeeming, taking up, or paying off the bonds.

(c) The State Board of Education, on receiving the application and affidavit, shall take action on them in the manner it considers best and shall notify the applicant whether the application is refused or granted in whole or in part.

(d) A person who has a duty under this section may not give or receive any commission, premium, or compensation for the performance of that duty.

(e) Only tax money collected from tax levies made for the specific purpose of providing a sinking fund and paying interest on the particular bonds to be redeemed may be spent in redeeming, taking up, or paying off of bonds as provided by this section, unless the bonds are being redeemed for the purpose of being refunded.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.010. Default of School District Securities Held by the Permanent School Fund.

(a) If interest or principal has not been paid for two years or more on any bonds issued by any school district and held by the permanent school fund, the State Board of Education may:

(1) compel the district to levy a tax sufficient to meet the interest and principal payments then or later due; or

(2) if the district furnishes to the State Board of Education satisfactory proof that the district's taxing ability is insufficient, require the district to:

(A) exhaust all legal remedies in collecting delinquent taxes; and

(B) levy a tax at the maximum lawful rate on the bona fide valuation of taxable property located in the district.

(b) Revenue collected by either method specified by Subsection (a) shall be distributed proportionately to all owners of the defaulted securities in compliance with the following:

(1) the proportionate share for each owner is based on the interest and principal requirements of the original security before authorized refunding; and

(2) prior acceptance of refunding securities does not reduce an owner's proportionate share.

(c) As long as any school district is delinquent in its payments of principal or interest on any of its bonds owned by the permanent school fund, the State Board of Education may specify the method of crediting payments to the state made by the district as to principal and interest.

(d) The comptroller may not issue any warrant from the foundation school fund to or for the benefit of any district that has been for as long as two years in default in the payment of principal or interest on any security owned by the permanent school fund until the State Board of Education certifies that the district has satisfactorily complied with the appropriate provisions of this section, in which event the comptroller shall resume making payments to or for the benefit of the district, including the making of pretermitted payments.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.011. Authorized Refunding of Defaulted School Bonds.

(a) In compliance with this section, the State Board of Education may revise, readjust, modify, refinance, or refund defaulted bonds issued by any school district in this state and owned by either the permanent school fund or the available school fund.

(b) Application must be made to the State Board of Education by the district that issued the bonds and must show that:

(1) delinquent interest totals at least 50 percent of the principal amount of the bonds; and

(2) taxable valuation has decreased to such an extent that a full application of the proceeds of the voted authorized tax authorized to be levied on the $100 taxable property valuation will not meet interest and principal annually maturing on the bonds.

(c) The State Board of Education may effect a refunding of the debt due and to become due only if the board finds that:

(1) the district is unable to pay the sums already matured and the sums contracted to be paid as they mature by paying annually to the State Board of Education the full proceeds of a 50-cent tax levy on the $100 of all taxable valuation of property in the district;

(2) the taxable valuation of property in the district has decreased at least 75 percent since the bonds were issued and that the decrease was not caused by the district or any of its officials;

(3) the district for a period of at least five years before applying to the State Board of Education for refunding has levied a tax of 50 cents on the $100 of taxable valuation of property in the district, and that despite such levies, the aggregate amount due the State Board of Education exceeds the aggregate amount due at the beginning of the period;

(4) the district has not authorized and sold additional bonds during the five-year period immediately preceding the application; and

(5) the district has in good faith endeavored to pay its debt in accordance with the contract evidenced by the bonds held for the account of the permanent school fund or the available school fund.

(d) If the conditions specified by Subsection (c) are found to exist, the district is, for purposes of this section, insolvent, and the State Board of Education may exchange the bonds, interest coupons, and other evidences of indebtedness for new refunding bonds of the district issued in compliance with the following:

(1) the principal amount of the refunding bonds may not be less than the total amount of the bonds, matured interest coupons, accrued interest, and interest on delinquent interest then actually due to the permanent school fund or the available school fund; and

(2) the rate of interest to be borne by the refunding bonds may be lower than that borne by the bonds to be refunded if in consideration of the interest reduction the district agrees to levy a tax each year for a period of 40 years at a rate sufficient to produce annually a sum equal to 90 percent of the amount that can be calculated by the levy of a tax at the rate of 50 cents on the $100 of taxable valuation of property as determined by the latest approved tax roll of the district, and in determining the rate of interest to be borne by the refunding bonds, the State Board of Education shall be governed by the following:

(A) the State Board of Education may require the rate to be a percent per annum as in its judgment will represent the maximum rate that can be paid by the district and still permit an orderly and certain retirement of the refunding bonds within 40 years from their date;

(B) the interest rate of refunding bonds to be received in exchange for bonds owned by the permanent school fund may not be less than the minimum rate at which bonds may then be purchased as investments for the permanent school fund; and

(C) the rate of interest of refunding bonds to be received in exchange for bonds owned by the available school fund may be set by the State Board of Education at any rate the board considers feasible, and the refunding bonds may, at the discretion of the State Board of Education, be made non-interest bearing to a date fixed by the board.

(e) The State Board of Education may not make a revision, readjustment, modification, refinancing, or refunding that will release or extinguish any debt or obligation then due and payable to the permanent school fund or to the available school fund.

(f) Except as otherwise provided or permitted by this section, the refunding of the bonds of school districts authorized by this section must be in compliance with the general provisions with regard to the refunding of school district bonds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.012. Refunding Other Defaulted Obligations.

(a) Defaulted obligations, other than bonds of school districts as provided by Section 43.011, due the available school fund may be refinanced or

refunded with the approval of the State Board of Education in compliance with this section.

(b) In this section, "defaulted obligations" includes delinquent interest whether represented by coupons or not, interest on delinquent interest, and any other form of obligation due the available school fund.

(c) The obligor must apply to the State Board of Education and show:

(1) that the obligations due the available school fund have been in default in whole or in part for a continuous period of at least 15 years; and

(2) that the obligor is not in default in the payment of the principal of any bonds owned by the permanent school fund.

(d) If the State Board of Education finds that the requirements provided by Subsection (c) have been met, it may approve a refinancing or the issuance of refunding bonds on the conditions:

(1) that the refunding bonds must mature serially in not exceeding 40 years from the date of issuance;

(2) that the principal amount of the refunding bonds may be not less than the total amount of the obligations then in default and due the available school fund; and

(3) that the refunding bonds must bear interest at a rate or rates determined by the State Board of Education to be for the best interest of the available school fund.

(e) The State Board of Education may accept refunding bonds in lieu of either matured or unmatured bonds held for the benefit of the permanent school fund if the rate of interest on the new refunding bonds is at least the same rate as that of the bonds being refunded.

(f) Refunding bonds issued with the approval or pursuant to a refunding agreement with the State Board of Education in compliance with either this section or Section 43.011 shall, on the order of the State Board of Education, be exchanged by the comptroller for the defaulted obligations they have been issued to refund.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.02, effective September 1, 1997.)

Sec. 43.013. Jurisdiction.

The district courts of Travis County have jurisdiction of any suit on bonds or obligations belonging to the permanent school fund, or purchased therewith, concurrent with that of any other court having jurisdiction in the case.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.014. Duties of Comptroller.

(a) On or before July 1 of each year, the comptroller shall estimate the amount of the available school fund receivable from every source during the following school year and report the estimate to the State Board of Education.

(b) On or before the meeting of each regular session of the legislature, the comptroller shall report to the legislature an estimate of the amount of the available school fund that is to be received for the following two years, and the sources from which that amount accrues, and that is subject to appropriation for the establishment and support of public schools.

(c) On or before the first working day of each month, the comptroller shall certify to the commissioner the total amount of money collected from every source during the preceding month and on hand to the credit of the available school fund.

(d) On receipt of certificates issued to the comptroller by the commissioner, the comptroller shall draw warrants in favor of the treasurer of the available school fund of each school district for the amounts stated in the certificates. All such warrants shall be registered.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.03, effective September 1, 1997.)

Sec. 43.015. Duties of Comptroller.

(a) Not later than the 30th day before the first day of each regular session of the legislature and not later than the 10th day before the first day of any special session at which there can be legislation respecting the public schools, the comptroller shall report to the governor the condition of the permanent school fund and the available school fund, the amount of each fund, and the manner of its disbursement.

(b) The comptroller shall provide the State Board of Education with the reports specified by Subsection (a) and with additional reports concerning those funds requested by the State Board of Education.

(c) The comptroller shall ensure that no portion of either the permanent school fund or the available school fund is used to pay any warrant drawn against any other fund.

(d) The comptroller shall receive and hold in a special deposit and account for all properties belonging to the available school fund. All warrants drawn on that fund by the comptroller pursuant to a certificate of the commissioner must be registered by the comptroller and then transmitted to the commissioner, and when properly endorsed shall be paid by the comptroller in the order of their presentation.

(e) On order of the State Board of Education, the comptroller shall exchange or accept refunding bonds in lieu of:

(1) either matured or unmatured bonds held for the benefit of the permanent school fund, which are being refunded under this chapter;

(2) defaulted obligations held for the benefit of the available school fund if the refunding bonds are issued in compliance with Section 43.012;

(3) defaulted obligations of any school district of this state held for the benefit of the permanent school fund or the available school fund if the refunding bonds are issued in compliance with Section 43.011; or

(4) refunding bonds of any school district of this state for school bonds not matured held by the comptroller for the permanent school fund if the new refunding bonds are issued by the school district in compliance with this code.

(f) The comptroller shall be the custodian of all securities enumerated in Section 43.003(6) and of other securities as designated by the State Board of Education in which the school funds of the state are invested. The comptroller shall keep those securities in the comptroller's custody until paid off, discharged, delivered as required by the State Board of Education, or otherwise disposed of by the proper authorities of the state, and on the proper installment of any interest or dividend, shall see that the proper credit is given, and the coupons on bonds, when paid, shall be separated from the bonds and cancelled by the comptroller.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.04, effective September 1, 1997.)

Sec. 43.016. Use of Available School Fund.

All available school funds shall be appropriated in each county for the education of its children.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.017. Use of Commercial Banks As Agents for Collection of Income from Permanent School Fund Investments.

(a) The State Board of Education may contract with one or more commercial banks to receive payments of dividends and interest on securities in which the state permanent school funds are invested and transmit that money with identification of its source to the comptroller for the account of the available school fund by the fastest available means.

(b) In choosing each commercial bank with which to contract as authorized by Subsection (a), the State Board of Education shall assure itself of:

(1) the financial stability of the bank;

(2) the location of the bank with respect to its proximity to the banks on which checks are drawn in payment of dividends and interest on securities of the permanent school fund;

(3) the experience and reliability of the bank in acting as agent for others in the similar collection and expeditious remittance of money; and

(4) the reasonableness of the bank's charges for the services, both in amount of the charges and in relation to the increased investment earnings of the available school fund that will result from speedier receipt by the comptroller of the money.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.05, effective September 1, 1997.)

Sec. 43.018. Participation in Fully Secured Securities Loan Programs.

(a) The State Board of Education may contract with a commercial bank to serve both as a custodian of securities in which the state permanent school funds are invested and to lend those securities, under the conditions prescribed by Subsection (b), to securities brokers and dealers on short-term loan.

(b) The State Board of Education may contract with a commercial bank pursuant to this section only if:

(1) the bank is located in a city having a major stock exchange;

(2) the bank is experienced in the operation of a fully secured securities loan program;

(3) the bank has adequate capital in the prudent judgment of the State Board of Education to assure the safety of the securities entrusted to it as a custodian;

(4) the bank will require of any securities broker or dealer to which it lends securities owned by the state permanent school fund that the broker or dealer deliver to it cash collateral for the loan of securities, and that the cash collateral will at all times be not less than 100 percent of the market value of the securities lent;

(5) the bank executes an indemnification agreement, satisfactory in form and content to the State Board of Education, fully indemnifying the permanent and available school funds against loss resulting from the bank's service as custodian of securities of the permanent school fund and its operation of a securities loan program using securities of the permanent school fund;

(6) the bank will speedily collect and remit on the day of collection by the fastest available means to the comptroller any dividends and interest collectible by it on securities held by it as custo-

dian, together with identification as to the source of the dividends or interest; and

(7) the bank is the bank agreeing to pay to the available school fund the largest sum or highest percentage of the income derived by the bank from use of the securities of the permanent school fund in the operation of a securities loan program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.06, effective September 1, 1997.)

Sec. 43.019. Accounting Treatment of Certain Exchanges.

The State Board of Education may account for the exchange of permanent school fund securities in a closely related sale and purchase transaction in a manner in which the gain or loss on the sale is deferred as an adjustment to the book value of the security purchased, if:

(1) the security sold and the security purchased have a fixed maturity value;

(2) the board is authorized by law to invest the permanent school fund in the security purchased;

(3) the sale is made in clear contemplation of reinvesting substantially all of the proceeds;

(4) substantially all of the proceeds are reinvested;

(5) the transaction is completed within a reasonable time after the sale, not to exceed 30 business days; and

(6) the transaction results in an improvement in effective income yield, taking into consideration the deferral of any gain or loss on the sale.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 43.020. Treatment of Accrued Income.

All interest and dividends accruing from the investments of the permanent school fund shall be deposited to the credit of the available school fund in accordance with the accrual basis of accounting. Funds recognized under this section are considered part of the available school fund and may be appropriated as provided by Section 5, Article VII, Texas Constitution.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 37, effective June 10, 2003.)

CHAPTER 44
FISCAL MANAGEMENT

Subchapter A. School District Fiscal Management

Subchapter B. Purchases; Contracts

Subchapter C. Penal Provisions

Subchapter Z. Miscellaneous Provisions

SUBCHAPTER A SCHOOL DISTRICT FISCAL MANAGEMENT

Sec. 44.001. Fiscal Guidelines.

(a) The commissioner shall establish advisory guidelines relating to the fiscal management of a school district.

(b) The commissioner shall report annually to the State Board of Education the status of school district fiscal management as reflected by the advisory guidelines and by statutory requirements.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.0011. Fiscal Year.

The fiscal year of a school district begins on July 1 or September 1 of each year, as determined by the board of trustees of the district. The commissioner may adopt rules concerning the submission of information by a district under Chapter 39 or 42 based on the fiscal year of the district.

(Enacted by Acts 1999, 76th Leg., ch. 643 (H.B. 98), § 1, effective September 1, 2001.)

Sec. 44.002. Preparation of Budget.

(a) On or before a date set by the State Board of Education, the superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of the district for the following fiscal year.

(b) The budget must be prepared according to generally accepted accounting principles, rules adopted by the State Board of Education, and adopted policies of the board of trustees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.003. Records and Reports.

The superintendent shall ensure that records are kept and that copies of all budgets, all forms, and all other reports are filed on behalf of the school district at the proper times and in the proper offices as required by this code.

(Enacted by Acts 1993, 73rd Leg., ch. 750 (S.B. 493), § 2, effective September 1, 1993; Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 881 (H.B. 2021), § 2, effective June 18, 1999; am. Acts 2005, 79th Leg., ch. 1205 (H.B. 664), § 3, effective September 1, 2005.)

Sec. 44.004. Notice of Budget and Tax Rate Meeting; Budget Adoption.

(a) When the budget has been prepared under Section 44.002, the president shall call a meeting of the board of trustees for the purpose of adopting a budget for the succeeding fiscal year.

(b) The president shall provide for the publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for the publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. Notice under this subsection shall be published not earlier than the 30th day or later than the 10th day before the date of the hearing.

(c) The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. Subject to Subsection (d), the notice must:

(1) contain a statement in the following form:

"NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET AND PROPOSED TAX RATE

"The (name of school district) will hold a public meeting at (time, date, year) in (name of room, building, physical location, city, state). The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited." The statement of the purpose of the meeting must be in bold type. In reduced type, the notice must state: "The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.";

(2) contain a section entitled "Comparison of Proposed Budget with Last Year's Budget," which must show the difference, expressed as a percent increase or decrease, as applicable, in the amounts budgeted for the preceding fiscal year and the amount budgeted for the fiscal year that begins in the current tax year for each of the following:

(A) maintenance and operations;

(B) debt service; and

(C) total expenditures;

(3) contain a section entitled "Total Appraised Value and Total Taxable Value," which must show the total appraised value and the total taxable value of all property and the total appraised value and the total taxable value of new property taxable by the district in the preceding tax year and the current tax year as calculated under Section 26.04, Tax Code;

(4) contain a statement of the total amount of the outstanding and unpaid bonded indebtedness of the school district;

(5) contain a section entitled "Comparison of Proposed Rates with Last Year's Rates," which must:

(A) show in rows the tax rates described by Subparagraphs (i)—(iii), expressed as amounts per $100 valuation of property, for columns entitled "Maintenance & Operations," "Interest & Sinking Fund," and "Total," which is the sum of "Maintenance & Operations" and "Interest & Sinking Fund":

(i) the school district's "Last Year's Rate";

(ii) the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service," which:

(a) in the case of "Maintenance & Operations," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 42, would provide the same amount of maintenance and operations taxes and state funds distributed under Chapter 42 per student in average daily attendance for the applicable school year that was available to the district in the preceding school year; and

(b) in the case of "Interest & Sinking Fund," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, and when multiplied by the district's anticipated collection rate, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 46 and any excess taxes collected to service the district's debt during the preceding tax year but not used for that purpose during that year, would provide the amount required to service the district's debt; and

(iii) the "Proposed Rate";

(B) contain fourth and fifth columns aligned with the columns required by Paragraph (A) that show, for each row required by Paragraph (A):

(i) the "Local Revenue per Student," which is computed by multiplying the district's total taxable value of property, as certified by the chief appraiser for the applicable school year under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, by the total tax rate, and dividing the product by the number of students in average daily attendance in the district for the applicable school year; and

(ii) the "State Revenue per Student," which is computed by determining the amount of state aid received or to be received by the district under Chapters 42, 43, and 46 and dividing that amount by the number of students in average daily attendance in the district for the applicable school year; and

(C) contain an asterisk after each calculation for "Interest & Sinking Fund" and a footnote to the section that, in reduced type, states "The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.";

(6) contain a section entitled "Comparison of Proposed Levy with Last Year's Levy on Average Residence," which must:

(A) show in rows the information described by Subparagraphs (i)—(iv), rounded to the nearest dollar, for columns entitled "Last Year" and "This Year":

(i) "Average Market Value of Residences," determined using the same group of residences for each year;

(ii) "Average Taxable Value of Residences," determined after taking into account the limitation on the appraised value of residences under Section 23.23, Tax Code, and after subtracting all homestead exemptions applicable in each year, other than exemptions available only to disabled persons or persons 65 years of age or older or their surviving spouses, and using the same group of residences for each year;

(iii) "Last Year's Rate Versus Proposed Rate per $100 Value"; and

(iv) "Taxes Due on Average Residence," determined using the same group of residences for each year; and

(B) contain the following information: "Increase (Decrease) in Taxes" expressed in dollars and cents, which is computed by subtracting the "Taxes Due on Average Residence" for the preceding tax year from the "Taxes Due on Average Residence" for the current tax year;

(7) contain the following statement in bold print: "Under state law, the dollar amount of school taxes imposed on the residence of a person 65 years of age or older or of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, may not be increased above the amount paid in the first year after the person turned 65, regardless of changes in tax rate or property value.";

(8) contain the following statement in bold print: "Notice of Rollback Rate: The highest tax rate the district can adopt before requiring voter approval at an election is (the school district rollback rate determined under Section 26.08, Tax Code). This election will be automatically held if the district adopts a rate in excess of the rollback rate of (the school district rollback rate)."; and

(9) contain a section entitled "Fund Balances," which must include the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding debt obligation, less estimated funds necessary for the operation of the district before the receipt of the first payment under Chapter 42 in the succeeding school year.

(c-1) The notice described by Subsection (c) must state in a distinct row or on a separate or individual line for each of the following taxes:

(1) the proposed rate of the school district's maintenance tax described by Section 45.003, under the heading "Maintenance Tax"; and

(2) if the school district has issued ad valorem tax bonds under Section 45.001, the proposed rate of the tax to pay for the bonds, under the heading "School Debt Service Tax Approved by Local Voters."

(d) The comptroller shall prescribe the language and format to be used in the part of the notice required by Subsection (c). A notice under Subsection (c) is not valid if it does not substantially conform to the language and format prescribed by the comptroller under this subsection.

(e) A person who owns taxable property in a school district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements of Subsections (b), (c), and (d), and, if applicable, Subsection (i), and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date the school district delivers substantially all of its tax bills.

(f) The board of trustees, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the school district for the next succeeding fiscal year. Any taxpayer of the district may be present and participate in the meeting.

(g) The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins.

(g-1) If the rate calculated under Subsection (c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

(h) Notwithstanding any other provision of this section, a school district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property required by Section 26.01(e), Tax Code, in preparing the notice required by this section if the district does not receive on or before June 7 the certified appraisal roll for the district required by Section 26.01(a), Tax Code.

(i) A school district that uses a certified estimate, as authorized by Subsection (h), may adopt a budget at the public meeting designated in the notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district required by Section 26.01(a), Tax Code. After receipt of the certified appraisal roll, the district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

(1) the rate proposed in the notice prepared using the estimate; or

(2) the district's rollback rate determined under Section 26.08, Tax Code, using the certified appraisal roll.

(j) Notwithstanding Subsections (g), (h), and (i), a school district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district as provided by Section 26.05(g), Tax Code. If a school district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate as provided by this section. Following adoption of the tax rate, the district must publish notice and hold another public meeting before the district may adopt

a budget. The comptroller shall prescribe the language and format to be used in the notices. The school district may use the certified estimate of taxable value in preparing a notice under this subsection.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 398 (H.B. 2075), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 898 (H.B. 3526), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 807 (S.B. 567), § 2, effective June 17, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.11, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 66, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.27, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.36 provides: "The change in law made by Subsection (g-1), Section 44.004, Education Code, as added by this Act, applies beginning with adoption of a tax rate for the 2011 tax year."

Sec. 44.0041. Publication of Summary of Proposed Budget.

(a) Concurrently with the publication of notice of the budget under Section 44.004, a school district shall post a summary of the proposed budget:

(1) on the school district's Internet website; or

(2) if the district has no Internet website, in the district's central administrative office.

(b) The budget summary must include:

(1) information relating to per student and aggregate spending on:

(A) instruction;

(B) instructional support;

(C) central administration;

(D) district operations;

(E) debt service; and

(F) any other category designated by the commissioner; and

(2) a comparison to the previous year's actual spending.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.06, effective May 31, 2006.)

Sec. 44.005. Filing of Adopted Budget.

On or before a date set by the State Board of Education, the budget must be filed with the agency according to the rules established by the State Board of Education.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.006. Effect of Adopted Budget; Amendments.

(a) Public funds of the school district may not be spent in any manner other than as provided for in the budget adopted by the board of trustees, but the board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses.

(b) Any amendment or supplementary budget must be prepared and filed according to rules adopted by the State Board of Education.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.0061. Review of Accounting System [Expired].

Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.07, effective January 2, 2007.
(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.07, effective May 31, 2006.)

Sec. 44.007. Accounting System; Report.

(a) A standard school fiscal accounting system must be adopted and installed by the board of trustees of each school district. The accounting system must conform with generally accepted accounting principles.

(b) The accounting system must meet at least the minimum requirements prescribed by the commissioner, subject to review and comment by the state auditor.

(c) A record must be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year shall be filed with the agency on or before the date set by the State Board of Education.

(d) The State Board of Education shall require each district, as part of the report required by this section, to include management, cost accounting, and financial information in a format prescribed by the board and in a manner sufficient to enable the board to monitor the funding process and determine educational system costs by district, campus, and program.

(e), (f) [Expired pursuant to Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 2.08, effective September 1, 2007.]
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 2, § 2.08, effective May 31, 2006.)

Sec. 44.0071. Computation of Instructional Expenditures Ratio and Instructional Employees Ratio.

(a) Each fiscal year, a school district shall compute and report to the commissioner:

(1) the percentage of the district's total expenditures for the preceding fiscal year that were used to fund direct instructional activities; and

(2) the percentage of the district's full-time equivalent employees during the preceding fiscal year whose job function was to directly provide classroom instruction to students, determined by dividing the number of hours spent by employees in providing direct classroom instruction by the total number of hours worked by all district employees.

(b) At least annually a school district shall provide educators employed by the district with a list of district employees determined by the district for purposes of this section to be engaged in directly providing classroom instruction to students. The list must include the percentage of time spent by each employee in directly providing classroom instruction to students.

(c) For purposes of this section, the computation of a district's expenditures used to fund direct instructional activities shall include the salary, including any associated employment taxes, and value of any benefits provided to any district employee who directly provided classroom instruction to students, but only in proportion to the percentage of time spent by the employee in directly providing classroom instruction to students.

(d) The commissioner shall adopt rules as necessary to implement this section. To the extent possible, the rules must provide for development of the information required by this section using information otherwise compiled by school districts for reporting through the Public Education Information Management System (PEIMS).

(Enacted by Acts 2003, 78th Leg., ch. 1269 (S.B. 900), § 1, effective September 1, 2003.)

Sec. 44.008. Annual Audit; Report.

(a) The board of school trustees of each school district shall have its school district fiscal accounts audited annually at district expense by a certified or public accountant holding a permit from the Texas State Board of Public Accountancy. The audit must be completed following the close of each fiscal year.

(b) The independent audit must meet at least the minimum requirements and be in the format prescribed by the State Board of Education, subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by the district through the Public Education Information Management System (PEIMS).

(c) Each treasurer receiving or having control of any school fund of any school district shall keep a full and separate itemized account with each of the different classes of its school funds coming into the treasurer's hands. The treasurer's records of the district's itemized accounts and records shall be made available to audit.

(d) A copy of the annual audit report, approved by the board of trustees, shall be filed by the district with the agency not later than the 150th day after the end of the fiscal year for which the audit was made. If the board of trustees declines or refuses to approve its auditor's report, it shall nevertheless file with the agency a copy of the audit report with its statement detailing reasons for failure to approve the report.

(e) The audit reports shall be reviewed by the agency, and the commissioner shall notify the board of trustees of objections, violations of sound accounting practices or law and regulation requirements, or of recommendations concerning the audit reports that the commissioner wants to make. If the audit report reflects that penal laws have been violated, the commissioner shall notify the appropriate county or district attorney and the attorney general. The commissioner shall have access to all vouchers, receipts, district fiscal and financial records, and other school records as the commissioner considers necessary and appropriate for the review, analysis, and passing on audit reports.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 914 (S.B. 218), § 2, effective September 1, 2001.)

Sec. 44.009. Financial Reports to Commissioner or Agency; Forms.

(a) All financial reports made by or for school districts or by their officers, agents, or employees, to the commissioner or to the agency, shall be made on forms prescribed by the agency, subject to review and comment by the state auditor.

(b) The agency shall combine as many forms as possible to avoid multiplicity of reports. The forms shall provide for entry of all information required by law or by the commissioner and information considered necessary by the state auditor.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.010. Review by Agency.

The budgets, fiscal reports, and audit reports filed with the agency shall be reviewed and analyzed by the staff of the agency to determine whether all legal requirements have been met and to collect fiscal data needed in preparing school fiscal reports for the governor and the legislature.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.011. Financial Exigency.

(a) The board of trustees of a school district may adopt a resolution declaring a financial exigency for the district. The declaration expires at the end of the fiscal year during which the declaration is made unless the board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year.

(b) The board is not limited in the number of times the board may adopt a resolution declaring continuation of the financial exigency.

(c) A board may terminate a financial exigency declaration at any time if the board considers it appropriate.

(d) Each time the board adopts a resolution under this section, the board must notify the commissioner. The commissioner by rule shall prescribe the time and manner in which notice must be given to the commissioner under this subsection.

(e) The commissioner by rule shall adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency by the board of trustees of the district.

(f) [Expired pursuant to Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 19, effective September 1, 2013.]

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 19, effective September 28, 2011.)

SUBCHAPTER B
PURCHASES; CONTRACTS

Sec. 44.031. Purchasing Contracts.

(a) Except as provided by this subchapter, all school district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at $50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

(1) competitive bidding for services other than construction services;

(2) competitive sealed proposals for services other than construction services;

(3) a request for proposals, for services other than construction services;

(4) an interlocal contract;

(5) a method provided by Chapter 2269, Government Code, for construction services;

(6) the reverse auction procedure as defined by Section 2155.062(d), Government Code; or

(7) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

(b) Except as provided by this subchapter, in determining to whom to award a contract, the district shall consider:

(1) the purchase price;

(2) the reputation of the vendor and of the vendor's goods or services;

(3) the quality of the vendor's goods or services;

(4) the extent to which the goods or services meet the district's needs;

(5) the vendor's past relationship with the district;

(6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;

(7) the total long-term cost to the district to acquire the vendor's goods or services;

(8) for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner:

(A) has its principal place of business in this state; or

(B) employs at least 500 persons in this state; and

(9) any other relevant factor specifically listed in the request for bids or proposals.

(b-1) In awarding a contract by competitive sealed bid under this section, a school district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Section 271.9051, Local Government Code. This subsection does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

(c) The state auditor may audit purchases of goods or services by the district.

(d) The board of trustees of the district may adopt rules and procedures for the acquisition of goods or services.

(e) To the extent of any conflict, this subchapter prevails over any other law relating to the purchasing of goods and services except a law relating to contracting with historically underutilized businesses.

(f) This section does not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent. A school district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section.

(g) Notice of the time by when and place where the bids or proposals, or the responses to a request

for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately.

(h) **[2 Versions: As amended by Acts 1999, 76th Leg., ch. 922]** If school equipment, a school facility, or a portion of a school facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the board of trustees determines that the delay posed by the contract methods required by this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or portion of the school facility may be made by a method other than the methods required by this section.

(h) **[2 Versions: As amended by Acts 1999, 76th Leg., ch. 1225]** If school equipment or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board of trustees determines that the delay posed by the methods provided for in this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment or the part of the school facility may be made by methods other than those required by this section.

(i) A school district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources under contracts entered into in accordance with Chapter 2054 or 2157, Government Code. Before issuing an invitation for bids, the department shall consult with the agency concerning the computer and computer-related equipment needs of school districts. To the extent possible the resulting contract shall provide for such needs.

(j) Without complying with Subsection (a), a school district may purchase an item that is available from only one source, including:

(1) an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;

(2) a film, manuscript, or book;

(3) a utility service, including electricity, gas, or water; and

(4) a captive replacement part or component for equipment.

(k) The exceptions provided by Subsection (j) do not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of $15,000.

(*l*) Each contract proposed to be made by a school district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at $20,000 or more.

(m) If a purchase is made at the campus level in a school district with a student enrollment of 180,000 or more that has formally adopted a site-based decision-making plan under Subchapter F, Chapter 11, that delegates purchasing decisions to the campus level, this section applies only to the campus and does not require the district to aggregate and jointly award purchasing contracts. A district that adopts site-based purchasing under this subsection shall adopt a policy to ensure that campus purchases achieve the best value to the district and are not intended or used to avoid the requirement that a district aggregate purchases under Subsection (a).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 881 (H.B. 2021), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 922 (H.B. 2260), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 436 (S.B. 221), § 7, effective May 28, 2001; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 9, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 38, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 680 (H.B. 2528), § 1, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1205 (H.B. 664), § 2, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 325 (H.B. 2626), § 1, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 449 (H.B. 273), § 4, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), art. 2, § 2.02, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1081 (H.B. 2918), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.02, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.002(5), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 44.0311. Applicability to Junior College Districts.

(a) Except as provided by Subsection (c), this subchapter applies to junior college districts.

(b) For purposes of this subchapter, "board of trustees" includes the governing board of a junior college district.

(c) This subchapter does not apply to a purchase, acquisition, or license of library goods and services for a library operated as a part of a junior college district. In this subsection, "library goods and services" has the meaning assigned by Section 130.0101(a).

(Enacted by Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 2, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 336 (H.B. 962), § 1, effective June 19, 2009.)

Sec. 44.0312. Delegation.

(a) The board of trustees of the district may, as appropriate, delegate its authority under this subchapter regarding an action authorized or required by this subchapter to be taken by a school district to a designated person, representative, or committee. In procuring construction services, the district shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request. If the district fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the board of trustees in an open public meeting is advisory only.

(b) The board may not delegate the authority to act regarding an action authorized or required by this subchapter to be taken by the board of trustees of a school district.

(c) Notwithstanding any other provision of this code, in the event of a catastrophe, emergency, or natural disaster affecting a school district, the board of trustees of the district may delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under this subchapter if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

(Enacted by Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 2, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1006 (H.B. 4102), § 6, effective June 19, 2009.)

Sec. 44.0313. Procedures for Electronic Bids or Proposals.

(a) A school district may receive bids or proposals under this chapter through electronic transmission if the board of trustees of the school district adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is not required to be sealed. A provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

(Enacted by Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 2, effective June 19, 2009.)

Sec. 44.0315. Definitions [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.

(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 10, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 14A, § 14A.756, effective September 1, 2003.)

Sec. 44.032. Enforcement of Purchase Procedures: Criminal Penalties; Removal; Ineligibility.

(a) In this section:

(1) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(2) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(b) An officer, employee, or agent of a school district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Section 44.031(a) or (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

(c) An officer, employee, or agent of a school district commits an offense if the person with criminal negligence violates Section 44.031(a) or (b) other than by conduct described by Subsection (b). An offense under this subsection is a Class B misdemeanor and is an offense involving moral turpitude.

(d) An officer or employee of a school district commits an offense if the officer or employee knowingly violates Section 44.031, other than by conduct described by Subsection (b) or (c). An offense under this subsection is a Class C misdemeanor.

(e) The final conviction of a person other than a trustee of a school district for an offense under Subsection (b) or (c) results in the immediate removal from office or employment of that person. A trustee who is convicted of an offense under this section is considered to have committed official misconduct for purposes of Chapter 87, Local Government Code, and is subject to removal as provided by that chapter and Section 24, Article V, Texas Constitution. For four years after the date of the final conviction, the removed person is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by or act as an agent for the state or a political subdivision of the state, and is ineligible to receive any compensation through a contract with the state or a political subdivision of the state. This subsection does not prohibit the payment of retirement benefits to the removed person or the payment of workers' compensation benefits to the removed person for an injury that occurred before the commission of the offense for which the person was removed. This subsection does not make a person ineligible for an office for which the federal or state constitution prescribes exclusive eligibility requirements.

(f) A court may enjoin performance of a contract made in violation of this subchapter. A county attorney, a district attorney, a criminal district attorney, a citizen of the county in which the school district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 3, effective September 1, 1999.)

Sec. 44.033. Purchases of Personal Property Valued Between $10,000 and $25,000 [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 15, effective June 19, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 881 (H.B. 2021), § 2, effective June 18, 1999; am. Acts 2005, 79th Leg., ch. 1205 (H.B. 664), § 3, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 325 (H.B. 2626), § 2, effective June 15, 2007.)

Sec. 44.0331. Management Fees Under Certain Cooperative Purchasing Contracts.

(a) A school district that enters into a purchasing contract valued at $25,000 or more under Section 44.031(a)(5), under Subchapter F, Chapter 271, Local Government Code, or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

(b) The amount, purpose, and disposition of any fee described by Subsection (a) must be presented in a written report and submitted annually in an open meeting of the board of trustees of the school district. The written report must appear as an agenda item.

(c) The commissioner may audit the written report described by Subsection (b).

(Enacted by Acts 2007, 80th Leg., ch. 449 (H.B. 273), § 5, effective June 15, 2007.)

Sec. 44.034. Notification of Criminal History of Contractor.

(a) A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.

(b) A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.

(c) This section does not apply to a publicly held corporation.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.035. Evaluation of Bids and Proposals for Construction Services [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.

(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 4, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 11, effective September 1, 2001.)

Sec. 44.0351. Competitive Bidding.

(a) Except to the extent prohibited by other law and to the extent consistent with this subchapter, a school district may use competitive bidding to select a vendor as authorized by Section 44.031(a)(1).

(b) Except as provided by this subsection, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process under this subchapter. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process under this subchapter.

(c) A school district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Section 44.031(b).

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.03, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 44.0352. Competitive Sealed Proposals.

(a) In selecting a vendor through competitive sealed proposals as authorized by Section 44.031(a)(2), a school district shall follow the procedures prescribed by this section.

(b) The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

(c) The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

(d) The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

(e) In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.03, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 44.036. Design-Build Contracts for Facilities [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.

(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), §§ 5, 6, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 12, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art 14A, § 14A.757, effective September 1, 2003.)

Sec. 44.037. Contracts for Facilities: Construction Manager-Agent [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.

(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 7, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 14A, § 14A.758, effective September 1, 2003.)

Sec. 44.038. Contracts for Facilities: Construction Manager-at-Risk [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.
(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 8, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1229 (S.B. 1331), § 3, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 14A, § 14A.759, effective September 1, 2003.)

Sec. 44.039. Selecting Contractor for Construction Services Through Competitive Sealed Proposals [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.
(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 8, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 14A, § 14A.760, effective September 1, 2003.)

Sec. 44.040. Selecting Contractor for Construction Services Through Competitive Bidding [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.
(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 9, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1229 (S.B. 1331), § 4, effective September 1, 2003.)

Sec. 44.041. Job Order Contracts for Facilities Construction or Repair [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 5.01(1), effective September 1, 2011.
(Enacted by Acts 1997, 75th Leg., ch. 1179 (S.B. 583), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1225 (S.B. 669), § 10, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 14A, § 14A.761, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1213 (H.B. 1886), § 9, effective September 1, 2007.)

Sec. 44.0411. Change Orders.

(a) If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes.

(b) The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

(c) The district may grant general authority to an administrative official to approve the change orders.

(d) A contract with an original contract price of $1 million or more may not be increased under this section by more than 25 percent. If a change order for a contract with an original contract price of less than $1 million increases the contract amount to $1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.04, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 44.042. Preference to Texas and United States Products.

(a) A school district that purchases agricultural products shall give preference to those produced, processed, or grown in this state if the cost to the school district is equal and the quality is equal.

(b) If agricultural products produced, processed, or grown in this state are not equal in cost and quality to other products, the school district shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products if the cost to the school district is equal and the quality is equal.

(c) A school district that purchases vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation if the cost to the school district is equal and the quality is not inferior.

(d) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (H.B. 1179), § 25(11), effective June 17, 2011.]

(e) In the implementation of this section, a school district may receive assistance from and use the resources of the Texas Department of Agriculture, including information on availability of agricultural products.

(f) A school district may not adopt product purchasing specifications that unnecessarily exclude

agricultural products produced, processed, or grown in this state.

(g) In this section:

(1) "Agricultural products" includes textiles and other similar products.

(2) "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form.

(Enacted by Acts 1999, 76th Leg., ch. 1342 (H.B. 597), § 1, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(11), effective June 17, 2011.)

Sec. 44.043. Right to Work.

(a) This section applies to a school district while the school district is engaged in:

(1) procuring goods or services;

(2) awarding a contract; or

(3) overseeing procurement or construction for a public work or public improvement.

(b) Notwithstanding any other provision of this chapter, a school district:

(1) may not consider whether a vendor is a member of or has another relationship with any organization; and

(2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

(Enacted by Acts 2001, 77th Leg., ch. 1409 (S.B. 510), § 13, effective September 1, 2001.)

Sec. 44.044. Contract with Person Indebted to School District.

(a) The board of trustees of a school district by resolution may establish regulations permitting the school district to refuse to enter into a contract or other transaction with a person indebted to the school district.

(b) It is not a violation of this subchapter for a school district, under regulations adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the school district.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the school district requiring approval by the board.

(Enacted by Acts 2003, 78th Leg., ch. 156 (S.B. 850), § 3, effective September 1, 2003.)

Sec. 44.047. Purchase or Lease of Automated External Defibrillator.

(a) A school district or private school that purchases or leases an automated external defibrillator, as defined by Section 779.001, Health and Safety Code, shall ensure that the automated external defibrillator meets standards established by the federal Food and Drug Administration.

(b) A private school that purchases or leases an automated external defibrillator is required to comply with the requirements of this section only if the school receives funding from the agency to purchase or lease the automated external defibrillator.

(Enacted by Acts 2007, 80th Leg., ch. 1371 (S.B. 7), § 7, effective June 15, 2007.)

SUBCHAPTER C
PENAL PROVISIONS

Sec. 44.051. Interference with Operation of Foundation School Program.

An offense under Section 37.10, Penal Code, is a felony of the third degree if it is shown on trial of the offense that the governmental record was a record, form, report, or budget required under Chapter 42 or rules adopted under that chapter. If the actor's intent is to defraud the state or the public school system, the offense is a felony of the second degree.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.052. Failure to Comply with Budget Requirements; Penalty.

(a) Any county superintendent approving any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits an offense. An offense under this subsection is a Class C misdemeanor.

(b) A person who fails to comply with the person's duties with regard to the preparation or the following of a county school budget or a budget of a school district or who violates any provision of Section 44.002 commits an offense. An offense under this subsection is a Class C misdemeanor.

(c) A trustee of a school district who votes to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits an offense. An offense under this subsection is a Class C misdemeanor.

(d) Charges of the violation of this section may be instituted by the proper county or district attorney or by the attorney general.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.053. Failure of Municipal Officer to Make Treasurer's Report; Penalty.

Any county or municipal treasurer or treasurer of the school board of each municipality having exclusive control of its schools who fails to make and transmit any report and certified copy thereof, or either, required by law, commits an offense. An offense under this section is a Class C misdemeanor.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 44.054. Failure to Transfer Students and Funds.

A county judge serving as ex officio county superintendent, a county, district, or municipal superintendent, or a school officer who refuses to transfer students and funds as provided by Subchapter B, Chapter 25, commits an offense. An offense under this section is a Class B misdemeanor.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 44.901. Energy Savings Performance Contracts.

(a) In this section, "energy savings performance contract" means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of new or existing school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term includes a contract for the installation or implementation of:

(1) insulation of a building structure and systems within the building;

(2) storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(3) automatic energy control systems, including computer software and technical data licenses;

(4) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;

(5) lighting fixtures that increase energy efficiency;

(6) energy recovery systems;

(7) electric systems improvements;

(8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;

(9) water-conserving landscape irrigation equipment;

(10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:

(A) landscape contouring, including the use of berms, swales, and terraces; and

(B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;

(11) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

(12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;

(13) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;

(14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or

(15) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

(b) [Repealed by Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 5, effective June 19, 2009.]

(c) Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding Subsection (a), an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

(d) The board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

(e) Before entering into an energy savings performance contract, the board shall require the provider of the energy or water conservation measures to file with the board a payment and performance bond relating to the installation of the measures in accordance with Chapter 2253, Government Code. The board may also require a separate bond to cover the value of the guaranteed savings on the contract.

(f) An energy savings performance contract may be financed:

(1) under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing;

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

(f-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(g) An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the school district under the contract. If the term of an energy savings performance contract exceeds one year, the school district's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures, as determined by the school district in this subsection, divided by the number of years in the contract term.

(h) An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

(i) Before entering into an energy savings performance contract, the board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply to work performed under the contract.

(j) Chapter 2269, Government Code, does not apply to this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1142 (H.B. 3530), § 1, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 361 (H.B. 2492), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 573 (H.B. 3286), §§ 1, 2, 11, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1319 (H.B. 2277), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), §§ 5, 121(1), effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 262 (S.B. 12), art. 3, § 3.03, effective June 8, 2007; am. Acts 2007, 80th Leg., ch. 527 (S.B. 831), § 1, effective June 16, 2007; am. Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 5, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 982 (H.B. 1728), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 3.01, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.002(6), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 44.902. Long-Range Energy Plan to Reduce Consumption of Electric Energy.

(a) The board of trustees of a school district shall establish a long-range energy plan to reduce the district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan.

(b) The plan required under Subsection (a) must include:

(1) strategies for achieving energy efficiency that:

(A) result in net savings for the district; or

(B) can be achieved without financial cost to the district; and

(2) for each strategy identified under Subdivision (1), the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

(b-1) For purposes of Subsection (b), a strategy for achieving energy efficiency includes facility design and construction.

(c) In determining under Subsection (b) whether a strategy may result in financial cost to the district, the board of trustees shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.

(d) The board of trustees may submit the plan required under Subsection (a) to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office or tax incentives administered by the state or federal government are available to the district. The board may not disallow any proper allocation of incentives.

(Enacted by Acts 2007, 80th Leg., ch. 939 (H.B. 3693), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1347 (S.B. 300), § 4, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 982 (H.B. 1728), § 2, effective September 1, 2011.)

Sec. 44.903. Energy-Efficient Light Bulbs in Instructional Facilities.

(a) In this section, "instructional facility" has the meaning assigned by Section 46.001.

(b) A school district shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

(1) uses the fewest watts for the necessary luminous flux or light output;

(2) is compatible with the light fixture; and

(3) is the most cost-effective, considering the factors described by Subdivisions (1) and (2).

(Enacted by Acts 2007, 80th Leg., ch. 939 (H.B. 3693), § 2, effective September 1, 2007.)

Sec. 44.908. Expenditure of Local Funds.

(a) A school district shall adopt a policy governing the expenditure of local funds from vending machines, rentals, gate receipts, or other local sources of revenue over which the district has direct control.

(b) A policy under this section must:

(1) require discretionary expenditures of local funds to be related to the district's educational purpose and provide a commensurate benefit to the district or its students; and

(2) meet the standards of Section 52, Article III, Texas Constitution, regarding expenditure of public funds.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 67, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 104 provides: "Section 44.908, Education Code, as added by this Act, applies to any expenditure of campus discretionary funds that occurs on or after September 1, 2009, regardless of the date on which the funds were raised."

CHAPTER 45
SCHOOL DISTRICT FUNDS

Subchapter A. Tax Bonds and Maintenance Taxes

Subchapter B. Revenue Bonds

Subchapter C. Guaranteed Bonds

Subchapter D. Sale of Surplus Real Property; Revenue Bonds

SUBCHAPTER A
TAX BONDS AND MAINTENANCE TAXES

Sec. 45.001. Bonds and Bond Taxes.

(a) The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may:

(1) issue bonds for:

(A) the construction, acquisition, and equipment of school buildings in the district;

(B) the acquisition of property or the refinancing of property financed under a contract entered under Subchapter A, Chapter 271, Local Government Code, regardless of whether payment obligations under the contract are due in the current year or a future year;

(C) the purchase of the necessary sites for school buildings; and

(D) the purchase of new school buses; and

(2) may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as or before the principal and interest become due, subject to Section 45.003.

(b) The bonds must mature serially or otherwise not more than 40 years from their date. The bonds may be made redeemable before maturity.

(c) Bonds may be sold at public or private sale as determined by the governing board of the district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1536 (S.B. 1091), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1500 (S.B. 1671), § 1, effective June 17, 2001; am. Acts 2009, 81st Leg., ch. 1240 (S.B. 2274), § 2, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 87(b), effective June 19, 2009.)

Sec. 45.0011. Credit Agreements in Certain School Districts.

(a) This section applies only to an independent school district that, at the time of the issuance of obligations and execution of credit agreements under this section, has:

(1) at least 2,000 students in average daily attendance; or

(2) a combined aggregate principal amount of at least $50 million of outstanding bonds and voted but unissued bonds.

(b) A district to which this section applies may, in the issuance of bonds as provided by Sections 45.001 and 45.003(b)(1), exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and execution of credit agreements under Chapter 1371, Government Code.

(c) A proposition to issue bonds to which this section applies must, in addition to meeting the requirements of Section 45.003(b)(1), include the question of whether the governing board or commissioners court may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, sufficient, without limit as to rate or amount, to pay the principal of and interest on the bonds and the costs of any credit agreements executed in connection with the bonds.

(d) A district may not issue bonds to which this section applies in an amount greater than the greater of:

(1) 25 percent of the sum of:

(A) the aggregate principal amount of all district debt payable from ad valorem taxes that is outstanding at the time the bonds are issued; and

(B) the aggregate principal amount of all bonds payable from ad valorem taxes that have been authorized but not issued;

(2) $25 million, in a district that has at least 3,500 but not more than 15,000 students in average daily attendance; or

(3) $50 million, in a district that has more than 15,000 students in average daily attendance.

(e) In this section, average daily attendance is determined in the manner provided by Section 42.005.

(f) Sections 1371.057 and 1371.059, Government Code, govern approval by the attorney general of obligations issued under the authority of this section.
(Enacted by Acts 1999, 76th Leg., ch. 1536 (S.B. 1091), § 2, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.207, effective September 1, 2001.)

Sec. 45.002. Maintenance Taxes.

The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools in the district, subject to Section 45.003.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.003. Bond and Tax Elections.

(a) Bonds described by Section 45.001 may not be issued and taxes described by Section 45.001 or 45.002 may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election held for that purpose, at the expense of the district, in accordance with the Election Code, except as provided by this section. Each election must be called by resolution or order of the governing board or commissioners court. The resolution or order must state the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters considered necessary or advisable by the governing board or commissioners court.

(b) A proposition submitted to authorize the issuance of bonds must include the question of whether the governing board or commissioners court may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, either:

(1) sufficient, without limit as to rate or amount, to pay the principal of and interest on the bonds; or

(2) sufficient to pay the principal of and interest on the bonds, provided that the annual aggregate bond taxes in the district may never be more than the rate stated in the proposition.

(c) If bonds are ever voted in a district pursuant to Subsection (b)(1), then all bonds thereafter proposed must be submitted pursuant to that subsection, and Subsection (b)(2) does not apply to the district.

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per $100 of taxable value adopted by the district may not exceed the rate equal to the sum of $0.17 and the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50.

(e) A rate that exceeds the maximum rate specified by Subsection (d) for the year in which the tax is to be imposed is void. A school district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the maximum rate specified by Subsection (d) for that year.

(f) Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than $1.50 per $100 of taxable value in the district as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per $100 of taxable value that is equal to the sum of $0.17 and the product of the state compression percentage, as determined under Section 42.2516, multiplied by the rate of the maintenance tax levied by the district for the 2005 tax year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 22, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 678 (H.B. 2888), § 2, effective September 1, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.12, effective May 31, 2006.)

Sec. 45.0031. Limitation on Issuance of Tax-Supported Bonds.

(a) Before issuing bonds described by Section 45.001, a school district must demonstrate to the attorney general under Subsection (b) or (c) that, with respect to the proposed issuance, the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed $0.50 per $100 of valuation.

(b) A district may demonstrate the ability to comply with Subsection (a) by using the most recent taxable value of property in the district, combined with state assistance to which the district is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

(c) A district may demonstrate the ability to comply with Subsection (a) by using a projected future taxable value of property in the district anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the district is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds. The district must submit to the attorney general a certification of the district's projected taxable value of property that is prepared by a registered professional appraiser certified under Chapter 1151, Occupations Code, who has demonstrated professional experience in projecting taxable values of property or who can by contract obtain any necessary assistance from a person who has that experience. To demonstrate the professional experience required by this subsection, a registered professional appraiser must provide to the district written documentation relating to two previous projects for which the appraiser projected taxable values of property. Until the bonds submitted to the attorney general are approved or disapproved, the district must maintain the documentation and on request provide the documentation to the attorney general or comptroller. The certification of the district's projected taxable value of property must be signed by the district's superintendent. The attorney general must base a determination of whether the district has complied with Subsection (a) on a taxable value of property that is equal to 90 percent of the value certified under this subsection.

(d) A district that demonstrates to the attorney general that the district's ability to comply with Subsection (a) is contingent on receiving state assistance may not adopt a tax rate for a year for purposes of paying the principal of and interest on the bonds unless the district credits to the account of the interest and sinking fund of the bonds the amount of state assistance equal to the amount needed to demonstrate compliance and received or to be received in that year.

(e) If a district demonstrates to the attorney general the district's ability to comply with Subsection (a) using a projected future taxable value of property under Subsection (c) and subsequently imposes a tax to pay the principal of and interest on bonds to which Subsection (a) applies at a rate that exceeds the limit imposed by Subsection (a), the attorney general may not approve a subsequent issuance of bonds unless the attorney general finds that the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds to which Subsection (a) applies

from a tax at a rate not to exceed $0.45 per $100 of valuation.

(Enacted by Acts 2001, 77th Leg., ch. 678 (H.B. 2888), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 14A, § 14A.762, effective September 1, 2003.)

Sec. 45.004. Refunding Bonds.

(a) In this section:

(1) "Bond" includes a note or other evidence of indebtedness.

(2) "Total debt service" means the amount of principal and unpaid interest on a bond to final maturity.

(b) Each governing board or commissioners court described by Section 45.001 may refund or refinance all or any part of any of the district's outstanding bonds and matured or unmatured but unpaid interest on those bonds payable from ad valorem taxes by issuing refunding bonds payable from ad valorem taxes.

(c) A series or issue of refunding bonds may not be issued unless:

(1) the total debt service on the refunding bonds will amount to less than the total debt service on the bonds being refunded;

(2) if a maximum interest rate was voted for the bonds being refunded, the refunding bonds do not bear interest at a rate higher than that maximum rate; and

(3) the refunding bonds are payable from taxes of the same nature as those pledged to the payment of the obligations being refunded.

(d) Refunding bonds may be made redeemable before maturity.

(e) The refunding bonds may be:

(1) issued and delivered in lieu of, and on surrender to the comptroller and cancellation of, the obligations being refunded, and the comptroller shall register the refunding bonds and deliver them in accordance with the resolution or order authorizing the refunding bonds; or

(2) sold for cash in any principal amounts necessary to provide all or any part of the money required to:

(A) pay the principal of any bonds being refunded and the interest to accrue on the bonds to maturity; or

(B) redeem any bonds being refunded before maturity, including principal, any required redemption premium, and the interest to accrue on the bonds to the redemption date.

(f) The refunding may be accomplished in one or in several installment deliveries. Refunding bonds also may be issued and delivered in accordance with any other applicable law.

(g) To refund bonds or to pay or redeem bonds in whole or in part without issuing refunding bonds, the governing board or commissioners court may deposit directly with the paying agent the proceeds from the sale of refunding bonds or any other available funds or resources. The deposit must be in an amount sufficient, after taking into account both the principal and interest to accrue on the assets of any escrow account created under Subsection (h), to provide for the payment or redemption of the bonds and assumed obligations that are to be refunded or to be paid or redeemed. The deposit constitutes the making of firm banking and financial arrangements for the discharge and final payment or redemption of the bonds being refunded.

(h) The governing board or commissioners court may enter into an escrow or a similar agreement with the paying agent with respect to the safekeeping, investment, reinvestment, administration, or disposition of the deposits, but the deposits may be invested and reinvested only in direct obligations of the United States, including obligations the principal of and interest on which are unconditionally guaranteed by the United States and that mature or bear interest payable at times and in amounts sufficient to provide for the scheduled payment or redemption of the bonds. The governing board or commissioners court shall enter into an appropriate escrow or a similar agreement if any of the bonds are scheduled to be paid or redeemed on a date later than the next succeeding scheduled interest payment date.

(i) If the governing body or commissioners court has entered into an escrow or a similar agreement under Subsection (h), the refunded bonds are considered to be defeased and may not be included in or considered to be an indebtedness of the district for the purpose of a limitation on outstanding indebtedness or taxation or for any other purpose.

(j) Refunding bonds may be issued under this section to refund any bonds that are scheduled to mature or that are subject to redemption before maturity, not more than 20 years from the date of the refunding bonds. The refunding bonds may be sold at public or private sale under the procedures, at the price, and on the terms determined by the governing board or commissioners court. In addition, the bonds may be sold bearing interest at the rate determined by the governing board or commissioners court, but not to exceed the maximum rate prescribed by Chapter 1204, Government Code. The governing board or commissioners court may pledge to the payment of any refunding bonds any surplus income to be available from the investment or reinvestment of any deposit made as authorized by this

section or any other available revenues, income, or resources.

(k) The refunding bonds may be issued in an additional amount sufficient to pay the costs and expenses of issuing the bonds and sufficient to fund any debt service reserve, contingency, or other similar fund considered necessary or advisable by the governing board or commissioners court.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.208, effective September 1, 2001.)

Sec. 45.005. Examination of Bonds by Attorney General.

All bonds issued pursuant to this subchapter, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general for examination.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.006. Maintenance Tax Required for Judgment Ordering Ad Valorem Tax Refund; Bonds.

(a) This section applies only to a school district that:

(1) has an average daily attendance of less than 10,000; and

(2) is located in whole or part in a municipality with a population of less than 25,000 that is located in a county with a population of 200,000 or more bordering another county with a population of 2.8 million or more.

(b) Notwithstanding Section 45.003, a school district may levy, assess, and collect maintenance taxes at a rate that exceeds $1.50 per $100 valuation of taxable property if:

(1) additional ad valorem taxes are necessary to pay a debt of the district that:

(A) resulted from the rendition of a judgment against the district before May 1, 1995;

(B) is greater than $5 million;

(C) decreases a property owner's ad valorem tax liability;

(D) requires the district to refund to the property owner the difference between the amount of taxes paid by the property owner and the amount of taxes for which the property owner is liable; and

(E) is payable according to the judgment in more than one of the district's fiscal years; and

(2) the additional taxes are approved by the voters of the district at an election held for that purpose.

(c) Except as provided by Subsection (e), any additional maintenance taxes that the district collects under this section may be used only to pay the district's debt under Subsection (b)(1).

(d) Except as provided by Subsection (e), the authority of a school district to levy the additional ad valorem taxes under this section expires when the judgment against the district is paid.

(e) The governing body of a school district shall pay the district's debt under Subsection (b)(1) in a lump sum. To satisfy the district's debt under Subsection (b)(1), the governing body may levy and collect additional maintenance taxes as provided by Subsection (b) and may issue bonds. If bonds are issued:

(1) the district may use any additional maintenance taxes collected by the district under this section to pay debt service on the bonds; and

(2) the authority of the district to levy the additional ad valorem taxes expires when the bonds are paid in full or the judgment is paid, whichever occurs later.

(f) The governing body of a school district that adopts a tax rate that exceeds $1.50 per $100 valuation of taxable property may set the amount of the exemption from taxation authorized by Section 11.13(n), Tax Code, at any time before the date the governing body adopts the district's tax rate for the tax year in which the election approving the additional taxes is held.

(g) The authority to issue bonds granted by this section expires June 1, 1996.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER B
REVENUE BONDS

Sec. 45.031. Gymnasia, Stadia, and Other Recreational Facilities.

The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may acquire, construct, improve, equip, operate, and maintain gymnasia, stadia, or other recreational facilities for and on behalf of its district. The facilities may be located inside or outside of the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.032. Revenue Bonds.

To provide funds to acquire, construct, improve, or equip gymnasia, stadia, or other recreational facili-

ties, the board, city council or commission, or commissioners court may issue revenue bonds payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, or other revenues from any or all of the facilities, in the manner provided by this subchapter. The bonds may be additionally secured by mortgages and deeds of trust on any real property on which any of the facilities are or will be located, or any real or personal property incident or appurtenant to the facilities, and the board, city council or commission, or commissioners court may authorize the execution and delivery of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence those liens. The bonds may be issued to mature serially or otherwise not to exceed 50 years from their date. In the authorization of any of those bonds, the board, city council or commission, or commissioners court may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under the terms set forth in the resolution or order authorizing the issuance of the bonds, all within the discretion of the board, city council or commission, or commissioners court. The bonds may be made redeemable before maturity. The bonds may be sold in the manner, at the price, and under the terms provided by the board, city council or commission, or commissioners court in the resolution or order authorizing the issuance of the bonds. If permitted by the bond resolution or order, any required part of the proceeds from the sale of the bonds may be:

(1) used for paying interest on the bonds during the period of the construction of any facilities to be provided through the issuance of the bonds;

(2) used for paying the operation and maintenance expenses of facilities to the extent and for the period specified in the bond resolution;

(3) used for creating reserves for the payment of the principal of and interest on the bonds; or

(4) invested, until needed, to the extent and in the manner provided in the bond resolution or order.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.033. Rentals, Rates, and Charges.

The board, city council or commission, or commissioners court may set and collect rentals, rates, and charges from students and others for the occupancy or use of any of the facilities, in the amounts and manner determined by the board, city council or commission, or commissioners court.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.034. Pledge of Revenues.

The board, city council or commission, or commissioners court may pledge all or any part of any of its revenues from the facilities to the payment of any bonds issued under this subchapter, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. If revenues from the facilities are pledged to the payment of bonds, the rentals, rates and charges for the occupancy or use of the facilities must be fixed and collected in amounts at least sufficient to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the resolution or order authorizing the issuance of the bonds, to provide for the payment of operation, maintenance, and other expenses.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.035. Refunding Bonds.

Revenue bonds issued by a board, city council or commission, or commissioners court under this subchapter and revenue bonds issued by a board, city council or commission, or commissioners court under other law and payable from revenues from facilities described by Section 45.031 may be refunded or otherwise refinanced by the board, city council or commission, or commissioners court, and in that case all appropriate provisions of this subchapter apply to the refunding bonds. In refunding or otherwise refinancing any such bonds, the board, city council or commission, or commissioners court may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this code and bonds issued pursuant to any other law, may combine all refunding bonds and any other additional new bonds to be issued under this chapter into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds must be issued and delivered under the terms set forth in the authorizing proceedings.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.036. Examination of Bonds by Attorney General.

All bonds issued pursuant to this subchapter, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general for examination.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER C
GUARANTEED BONDS

Sec. 45.051. Definitions.

In this subchapter:

(1) "Board" means the State Board of Education.

(1-a) "Charter district" means an open-enrollment charter school designated as a charter district under Section 12.135.

(2) "Paying agent" means the financial institution that is designated by a school district or charter district as its agent for the payment of the principal of and interest on guaranteed bonds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.02, effective September 28, 2011.)

Sec. 45.052. Guarantee.

(a) On approval by the commissioner, bonds issued under Subchapter A by a school district or Chapter 53 for a charter district, including refunding and refinanced bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district or charter district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 68, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.03, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 280 (H.B. 885), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 280 (H.B. 885), § 4 provides: "This Act applies only to a bond issued, refunded, or refinanced on or after the effective date of this Act [September 1, 2013] by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code. A bond issued, refunded, or refinanced before the effective date of this Act by an open-enrollment charter school designated as a charter district is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 45.053. Limitation; Value Estimates.

(a) Except as provided by Subsection (d), the commissioner may not approve bonds for guarantee under this subchapter if the approval would result in the total amount of outstanding guaranteed bonds under this subchapter exceeding an amount equal to 2-½ times the cost value of the permanent school fund, as estimated by the board and certified by the state auditor.

(b) Each year, the state auditor shall analyze the status of guaranteed bonds under this subchapter as compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the amount of bonds guaranteed under this subchapter is within the limit prescribed by this section.

(c) The commissioner shall prepare and the board shall adopt an annual report on the status of the guaranteed bond program under this subchapter.

(d) The board by rule may increase the limit prescribed by Subsection (a) to an amount not to exceed five times the cost value of the permanent school fund, provided that the increased limit is consistent with federal law and regulations and does not prevent the bonds to be guaranteed from receiving the highest available credit rating, as determined by the board. The board shall at least annually consider whether to change any limit in accordance with this subsection. This subsection may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 89 (H.B. 1295), § 1, effective May 20, 2003; am. Acts 2007, 80th Leg., ch. 139 (S.B. 389), § 1, effective May 18, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 68A, effective September 1, 2009.)

Sec. 45.0531. Additional Limitation: Reservation of Percentage of Permanent School Fund Value.

(a) In addition to the limitation on the approval of bonds for guarantee under Section 45.053, the board by rule may establish a percentage of the cost value of the permanent school fund to be reserved from use in guaranteeing bonds under this subchapter.

(b) If the board has reserved a portion of the permanent school fund under Subsection (a), each year, the state auditor shall analyze the status of the reserved portion compared to the cost value of the permanent school fund. Based on that analysis, the state auditor shall certify whether the portion of the permanent school fund reserved from use in guaranteeing bonds under this subchapter satisfies the reserve percentage established.

(c) If the board has reserved a portion of the permanent school fund under Subsection (a), the board shall at least annually consider whether to change the reserve percentage established to ensure that the reserve percentage allows compliance with federal law and regulations and serves to enable

bonds guaranteed under this subchapter to receive the highest available credit rating, as determined by the board.

(d) This section may not be construed in a manner that impairs, limits, or removes the guarantee of bonds that have been approved by the commissioner.
(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 69, effective September 1, 2009.)

Sec. 45.0532. Limitation on Guarantee of Charter District Bonds.

(a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the percentage of the total available capacity of the guaranteed bond program that is equal to the percentage of the number of students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.

(a-1) The commissioner may not approve charter district refunding or refinanced bonds for guarantee under this subchapter in a total amount that exceeds one-half of the total amount available for the guarantee of charter district bonds under Subsection (a).

(b) For purposes of Subsection (a), the total available capacity of the guaranteed bond program is the limit established by the board under Sections 45.053(d) and 45.0531 minus the total amount of outstanding guaranteed bonds. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(c) Notwithstanding Subsections (a) and (b), the commissioner may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.

(d) The commissioner may request that the comptroller place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the commissioner determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested under this subchapter.

(e) A guarantee of charter district bonds must be made in accordance with this chapter and any applicable federal law.
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.04, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 280 (H.B. 885), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 280 (H.B. 885), § 4 provides: "This Act applies only to a bond issued, refunded, or refinanced on or after the effective date of this Act [September 1, 2013] by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code. A bond issued, refunded, or refinanced before the effective date of this Act by an open-enrollment charter school designated as a charter district is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 45.054. Eligibility of School District Bonds.

To be eligible for approval by the commissioner, school district bonds must be issued under Subchapter A of this chapter or under Subchapter A, Chapter 1207, Government Code, to make a deposit under Subchapter B or C of that chapter, by an accredited school district.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.209, effective September 1, 2001; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.05, effective September 28, 2011.)

Sec. 45.0541. Eligibility of Charter District Bonds.

To be eligible for approval by the commissioner, charter district bonds must:

(1) without the guarantee, be rated as investment grade by a nationally recognized investment rating firm; and

(2) be issued under Chapter 53.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.06, effective September 28, 2011.)

Sec. 45.055. Application for Guarantee.

(a) A school district or charter district seeking guarantee of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a school district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for guarantee under this subchapter and then, if that guarantee is rejected, for credit enhancement under Subchapter I.

(b) An application under Subsection (a) must include:

(1) the name of the school district or charter district and the principal amount of the bonds to be issued;

(2) the name and address of the district's paying agent for those bonds; and

(3) the maturity schedule, estimated interest rate, and date of the bonds.

(c) An application under Subsection (a) must be accompanied by a fee set by rule of the board in an amount designed to cover the costs of administering the programs to provide the guarantee or credit enhancement of eligible bonds.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 70, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.07, effective September 28, 2011.)

Sec. 45.056. Investigation.

(a) Following receipt of an application for the guarantee of bonds, the commissioner shall conduct an investigation of the applicant school district or charter district in regard to:

(1) the status of the district's accreditation; and

(2) the total amount of outstanding guaranteed bonds.

(b) If following the investigation the commissioner is satisfied that the school district's bonds should be guaranteed under this subchapter or provided credit enhancement under Subchapter I, as applicable, or the charter district's bonds should be guaranteed under this subchapter, the commissioner shall endorse the bonds.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 71, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.08, effective September 28, 2011.)

Sec. 45.057. Guarantee Endorsement.

(a) The commissioner shall endorse bonds approved for guarantee with:

(1) the commissioner's signature or a facsimile of the commissioner's signature; and

(2) a statement relating the constitutional and statutory authority for the guarantee.

(b) The guarantee is not effective unless the attorney general approves the bonds under Section 45.005 or 53.40, as applicable.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.09, effective September 28, 2011.)

Sec. 45.0571. Charter District Bond Guarantee Reserve Fund.

(a) The charter district bond guarantee reserve fund is a special fund in the state treasury outside the general revenue fund. The following amounts shall be deposited in the fund:

(1) money due from a charter district as provided by Subsection (b); and

(2) interest earned on balances in the fund.

(b) A charter district that has a bond guaranteed as provided by this subchapter must annually remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 10 percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be amortized and paid over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued. The commissioner shall adopt rules to determine the total and annual amounts due under this section.

(c) The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.

(d) Each year, the commissioner shall:

(1) review the condition of the bond guarantee program and the amount that must be deposited in the charter district bond guarantee reserve fund from charter districts; and

(2) determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee.

(e) The commissioner shall make recommendations to the legislature based on the review under Subsection (d).
(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.10, effective September 28, 2011.)

Sec. 45.058. Notice of Default.

Immediately following a determination that a school district or charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth day before maturity date, the school district or charter district shall notify the commissioner.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.11, effective September 28, 2011.)

Sec. 45.059. Payment of School District Bond on Default.

(a) Immediately following receipt of notice under Section 45.058 that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller shall hold the canceled bond or coupon on behalf of the permanent school fund.

(c) Following full reimbursement to the permanent school fund with interest, the comptroller shall further cancel the bond or coupon and forward it to the school district for which payment was made.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), art. 5, § 5.07, effective September 1, 1997; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 59.12, 59.13, effective September 28, 2011.)

Sec. 45.0591. Payment of Charter District Bond on Default.

(a) Immediately following receipt of notice under Section 45.058 that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the charter district bond guarantee reserve fund created under Section 45.0571 to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) If money in the charter district bond guarantee reserve fund is insufficient to pay the amount due on a bond under Subsection (a), the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest.

(c) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller shall hold the canceled bond or coupon on behalf of the fund or funds from which payment was made.

(d) Following full reimbursement to the charter district bond guarantee reserve fund and the permanent school fund, if applicable, with interest, the comptroller shall further cancel the bond or coupon and forward it to the charter district for which payment was made.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.14, effective September 28, 2011.)

Sec. 45.060. Bonds Not Accelerated on Default.

If a school district or charter district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's or charter district's default.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.15, effective September 28, 2011.)

Sec. 45.061. Reimbursement of Funds.

(a) If the commissioner orders payment from the permanent school fund or the charter district bond guarantee reserve fund on behalf of a school district or charter district, the commissioner shall direct the comptroller to withhold the amount paid, plus interest, from the first state money payable to the school district or charter district. Except as provided by Subsection (a-1), the amount withheld shall be deposited to the credit of the permanent school fund.

(a-1) After the permanent school fund has been reimbursed for all money paid from the fund as the result of a default of a charter district bond guaranteed under this subchapter, any remaining amounts withheld under Subsection (a) shall be deposited to the credit of the charter district bond guarantee reserve fund.

(b) In accordance with the rules of the board, the commissioner may authorize reimbursement to the permanent school fund or charter district bond guarantee reserve fund with interest in a manner other than that provided by this section.

(c) The commissioner may order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to:

(1) provide reimbursement under this section; and

(2) pay the principal of and interest on district bonds as the principal and interest become due.

(d) If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Subchapter G, Chapter 39, including appointment of a board of managers or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 72, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 59.16, 59.17, effective September 28, 2011.)

Sec. 45.062. Repeated Defaults.

(a) If a total of two or more payments are made under this subchapter or Subchapter I on the bonds

of a school district and the commissioner determines that the school district is acting in bad faith under the guarantee program under this subchapter or the credit enhancement program under Subchapter I, the commissioner may request the attorney general to institute appropriate legal action to compel the school district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

(a-1) **[Effective September 28, 2011]** If a total of two or more payments are made under this subchapter on charter district bonds and the commissioner determines that the charter district is acting in bad faith under the guarantee program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the charter district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

(b) Jurisdiction of proceedings under this section is in district court in Travis County.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 73, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.18, effective September 28, 2011.)

Sec. 45.063. Rules.

The board may adopt rules necessary for the administration of the bond guarantee program.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER D
SALE OF SURPLUS REAL PROPERTY; REVENUE BONDS

Sec. 45.081. Definitions.

In this subchapter:

(a) "District" means an independent school district.

(b) "Board" means the governing body of a district.

(c) "Real property" means any interest in land, buildings, or fixtures permanently attached to buildings or land.

(d) "Bonds" includes notes, contracts, and any other evidences of an obligation to pay a sum of money.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.082. Sale of Property; Revenue Bonds.

(a) The board of a district may sell real property owned by the district and issue revenue bonds payable from the proceeds of the sale subject to this section.

(b) The board must determine by order that the real property is not required for the current needs of the district for educational purposes, and the proceeds from the sale are required and will be used for:

(1) constructing or equipping school buildings in the district or purchasing necessary sites for school buildings; or

(2) paying the principal of and interest and premium on any bonds issued pursuant to this subchapter.

(c) The board is not required to comply with this section if the sale is:

(1) to a corporation established by the district under Chapter 303, Local Government Code; and

(2) subject to a lease-purchase agreement under which the district will acquire the real property.

(d) The real property may be sold for the price and on the terms determined by order of the board to be most advantageous to the district. The sale may be made pursuant to an installment sale agreement or contract or any other method. The sale must be for cash and all payments for the real property must be scheduled to be paid not more than 10 years after the date of execution of the agreement or contract of sale. Real property may not be sold for less than an aggregate price equal to its fair market value as determined by an appraisal obtained by the district not more than 180 days before the publication of the notice required by Subsection (e)(3). The appraisal is conclusive of the fair market value of the property for purposes of this subchapter.

(e) Before selling or executing any agreement or contract for the sale of the real property, the board shall:

(1) determine which real estate is proposed to be sold;

(2) determine the scope of the terms on which it will consider selling the real property, and, if the sale price is to be paid in installments, require the purchasers of the real property to secure the payment of the sale price by escrowing collateral acceptable to the board such as a letter of credit, United States government bonds, or any other generally recognized form of guarantee or security;

(3) publish a notice to prospective purchasers at least two weeks before the date set for receiving proposals in a real estate journal and in at least two newspapers of general circulation in the district, requesting sealed written proposals from prospective purchasers to purchase the real property and including the scope of the terms of sale

that will be considered, and the time, date, and place where the proposals will be received; and

(4) determine by order of the board which sealed written proposal is most advantageous to the district, and accept that proposal, or reject all proposals if considered advisable.

(f) Except as provided by this subsection, the sale must have been previously approved by a majority of the qualified voters of the district voting at an election held in the district at which a proposition to ascertain approval is submitted. An election is not required if the board determines by order that the proceeds from the sale of the real property are required and will be used for constructing or equipping or for paying the principal of, and interest and premium, if any, on bonds issued pursuant to this subchapter for the purpose of constructing or equipping a school building that is to be constructed pursuant to an order or judgment entered by a United States District Judge in any action or cause in which the district is a party.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.210, effective September 1, 2001.)

Sec. 45.083. Other Laws Not Applicable.

Section 272.001, Local Government Code, Chapter 26, Parks and Wildlife Code, and all other general laws pertaining to the sale of public property do not apply to sales of real property pursuant to this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.084. Contracts.

The district may execute contracts for constructing or equipping school buildings in the district or for purchasing any necessary sites for school buildings in the manner provided by law. If any contract recites that payments under the contract are to be made either from the proceeds from the sale of real property under an installment sale agreement or any similar method pursuant to this subchapter or from proceeds from the sale of bonds issued pursuant to this subchapter, then the contract may be made payable in installments to correspond with the receipt by the district either of proceeds under the sale agreement or proceeds from the sale of any bonds to be issued and delivered in more than one issue, series, or installment, and the contract is not a prohibited debt or indebtedness of the district if the payments under the contract are required to be made solely from the proceeds from the sale of real property or the bonds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.085. Bond Requirements.

(a) In addition to the powers granted by this subchapter, any board, for and on behalf of its district, may issue, sell, and deliver revenue bonds of its district from time to time and in one or more issues, series, or installments, with the principal of and interest and premium, if any, on the bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenue, income, payments, or receipts derived by the district from the sale of real property pursuant to this subchapter, and those amounts may be pledged by the district to the payment of the principal of and interest and premium, if any, on such bonds, subject to this section.

(b) Bonds must be issued by an order of the board.

(c) The bonds must be issued for the purpose of constructing or equipping school buildings in the district or purchasing necessary sites for school buildings.

(d) The bonds shall mature, come due, or be payable serially, in installments, or otherwise, within not to exceed 90 days after the last date on which the final payment is due to the district from the sale of the real property. The bond order may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms set forth in the bond order.

(e) The bonds may be executed, made redeemable before maturity or due date, and be issued in the form, denominations, and manner and under the terms provided in the bond order. The bonds may be sold in the manner, at the price, and under the terms and may bear interest at the rates provided in the bond order.

(f) If so provided in any bond order, the proceeds from the sale of the bonds may be used for paying interest on the bonds during the period of constructing or equipping any school buildings to be provided through the issuance of the bonds or for creating a reserve fund for the payment of principal and interest on the bonds. The proceeds may be placed on time deposit, in certificates of deposit, or invested, until needed, to the extent and in the manner provided in any bond order. The proceeds also may be used for paying the costs and expenses of issuing the bonds and selling the real property.

(g) The bonds may be payable only from the revenues described by Subsection (a) and may not be payable or paid from any taxes levied and collected in the district.

(h) Chapter 1201, Chapter 1204, and Subchapters A—C, Chapter 1207, Government

Code, apply to bonds issued pursuant to this subchapter.

(i) If bonds are issued pursuant to this subchapter, the bonds, along with the appropriate proceedings authorizing their issuance, and the sale agreement the proceeds from which they are payable shall be submitted to the attorney general for examination. If after the initial issuance of any bonds under this subchapter payable from the proceeds of a particular sale agreement, one or more subsequent issues, series, or installments of bonds are issued as additional parity bonds, on a parity with the initial bonds and payable from the proceeds of that sale agreement, then, at the option of the board, the subsequent issues, series, or installments of bonds need not be submitted to the attorney general or approved by the attorney general or registered by the comptroller, and the subsequent bonds are, on delivery of and payment for the bonds, valid and incontestable in the same manner and with the same effect as if they had been approved by the attorney general and registered by the comptroller as were the initial bonds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.211, effective September 1, 2001.)

Sec. 45.086. Liberal Construction.

This subchapter shall be construed liberally to accomplish the legislative intent and the purposes of the subchapter, and all powers granted by this subchapter shall be broadly interpreted to accomplish that intent and those purposes and not as a limitation of powers.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.087. Other Powers Unrestricted.

This subchapter does not restrict the power of a school district to sell property or issue bonds as provided by other law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec. 45.101. Use of Bond Proceeds for Utility Connections.

The proceeds of bonds issued by school districts for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the school district may provide its public school buildings the water, sewer, or gas services.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.102. Investment of Bond Proceeds in Obligations of United States or Interest-Bearing Secured Time Bank Deposits.

(a) A school district that has on hand proceeds received from the issuance and sale of bonds or certificates of indebtedness of the district that are not immediately needed for the purposes for which the bonds or certificates of indebtedness were issued and sold, may, on order of the board of trustees:

(1) place the proceeds on interest-bearing time deposit, secured in the manner provided by Section 45.208, with a state or national banking corporation in this state the deposits of which are insured by the Federal Deposit Insurance Corporation; or

(2) invest the proceeds in bonds or other obligations of the United States.

(b) Interest-bearing secured time deposits or bonds or other obligations of the United States in which proceeds of bonds or certificates of indebtedness are placed or invested must be of a type that cannot be cashed, sold, or redeemed for an amount less than the sum deposited or invested by the school district.

(c) When the sums placed or invested by a school district are needed for the purposes for which the bonds or certificates of indebtedness of the school district were originally authorized, issued, and sold:

(1) the time deposits or bonds or other obligations of the United States in which the sums have been placed or invested shall be cashed, sold, or redeemed; and

(2) the proceeds shall be used for the purposes for which the bonds or certificates of indebtedness of the school district were originally authorized, issued, and sold.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.103. Interest-Bearing Time Warrants.

(a) Any school district in need of funds to construct, repair, or renovate school buildings, purchase school buildings and school equipment, or equip school properties with necessary heating, water,

sanitation, lunchroom, or electric facilities or in need of funds with which to employ a person who has special skill and experience to compile taxation data and that is financially unable out of available funds to construct, repair, renovate, or purchase school buildings, purchase school equipment, or equip school properties with necessary heating, water, sanitation, lunchroom, or electric facilities or is unable to pay the person for compiling taxation data, may, subject to this section, issue interest-bearing time warrants, in amounts sufficient to construct, purchase, equip, or improve school buildings and facilities or to pay all or part of the compensation of the person to compile taxation data, any law to the contrary notwithstanding. The warrants shall mature in serial installments of not more than 15 years from their date of issue. The warrants on maturity may be payable out of any available funds of the school district in the order of their maturity dates. Any interest-bearing time warrants may be issued and sold by the district for not less than their face value, and the proceeds used to provide funds required for the purpose for which they are issued. The warrants shall be entitled to first payment out of any available funds of the district as they become due. Included in the purposes for which interest-bearing time warrants may be issued is the payment of any amounts owed by the school district that was incurred in carrying out any of those purposes.

(a-1) A school district may also issue interest-bearing time warrants to refund warrants previously issued under this section if the refunding warrants are coterminous with the refunded obligations.

(b) Interest-bearing time warrants may not be issued or sold by a common school district or rural high school district until they are approved by the county board of school trustees. The board shall, on application of the school district, inquire into the financial conditions and needs of the district, and may not approve the issuance of interest-bearing time warrants unless in its opinion the district:

(1) is in need of constructing, purchasing, repairing, or renovating a school building, obtaining the school equipment, or equipping school properties with necessary heating, water, sanitation, lunchroom, or electric facilities; and

(2) will be able with the resources in prospect to liquidate the warrants at their maturity.

(c) A school district may not issue interest-bearing time warrants in excess of five percent of the assessed valuation of the district for the year in which the warrants are issued. The payment of interest-bearing time warrants in any one year may not exceed the anticipated surplus income of the district for the year in which the warrants are issued, based on the budget of the district for that year. The anticipated income computed under this section is exclusive of all bond taxes. A school district may not have outstanding at any one time warrants totaling in excess of $1 million under this section.

(d) If interest-bearing time warrants issued under this section are outstanding, the officer in charge of the collection of delinquent taxes shall pay those collections to the legal depository of the district, to be deposited and held in a special fund for the payment of the interest-bearing time warrants, and except as otherwise provided by this section, collections of delinquent taxes may not be applied or used for any other purpose.

(e) Interest and penalties on delinquent taxes are considered a part of those taxes for purposes of this section. If any delinquent taxes, including interest and penalties, are canceled, waived, released, or reduced either by the school district or in any other way, with or without its consent, the amount of the loss sustained shall be paid by the district to the special fund provided for by Subsection (d) out of funds not otherwise pledged to that special fund.

(f) All school districts issuing interest-bearing time warrants may encumber and mortgage any property purchased with the proceeds of the warrants or any property, including teachers' residences, owned by the district to secure the payment of legally incurred obligations, except that a lien may not be placed on any school building in which actual classroom instruction of students is conducted.

(g) In this section, "interest-bearing time warrant" includes a promissory note or other evidence of indebtedness issued under this section.

(h) Taxes levied to pay principal and interest of bonds that are delinquent are not included in the term "delinquent taxes" as used in this section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 1536 (S.B. 1091), § 3, effective June 19, 1999; am. Acts 2013, 83rd Leg., ch. 1018 (H.B. 2610), § 1, effective September 1, 2013.)

Sec. 45.104. Pledge of Delinquent Taxes As Security for Loan.

(a) The board of trustees of any school district may pledge its delinquent taxes levied for maintenance purposes for specific past, current, and future school years as security for a loan, and may evidence any such loan with negotiable notes, and the delinquent taxes pledged shall be applied against the principal and interest of the loan. Negotiable notes issued under this subsection must mature not more than 20 years from their date.

(b) A school district may not pledge delinquent taxes levied for school bonds as security for a loan.

(c) Funds secured through loans secured by delinquent taxes may be employed for any legal maintenance expenditure or purpose of the school district, including all costs incurred in connection with:

(1) environmental cleanup and asbestos removal programs implemented by school districts; or

(2) maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.

(d) A loan secured by delinquent taxes may bear interest at a rate not to exceed the maximum rate provided by Section 1204.006, Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.34, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.212, effective September 1, 2001.)

Sec. 45.105. Authorized Expenditures.

(a) The public school funds may not be spent except as provided by this section.

(b) The state and county available funds may be used only for the payment of teachers' and superintendents' salaries and interest on money borrowed on short time to pay those salaries that become due before the school funds for the current year become available. Loans for the purpose of payment of teachers may not be paid out of funds other than those for the current year.

(c) Local school funds from district taxes, tuition fees of students not entitled to a free education, other local sources, and state funds not designated for a specific purpose may be used for the purposes listed for state and county available funds and for purchasing appliances and supplies, paying insurance premiums, paying janitors and other employees, buying school sites, buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase, and for other purposes necessary in the conduct of the public schools determined by the board of trustees. The accounts and vouchers for county districts must be approved by the county superintendent. If the state available school fund in any municipality or district is sufficient to maintain the schools in any year for at least eight months and leave a surplus, the surplus may be spent for the purposes listed in this subsection.

(d) An independent school district that has in its limits a municipality with a population of 150,000 or more or that contains at least 170 square miles, has $850 million or more assessed value of taxable property on the most recent approved tax roll and has a growth in average daily attendance of 11 percent or more for each of the preceding five years as determined by the agency may, in buying school sites or additions to school sites and in building school buildings, issue and deliver negotiable or nonnegotiable notes representing all or part of the cost to the school district of the land or building. The district may secure the notes by a vendor's lien or deed of trust lien against the land or building. By resolution or order of the governing body made at or before the delivery of the notes, the district may set aside and appropriate as a trust fund, and the sole and only fund, for the payment of the principal of and interest on the notes that part of the local school funds, levied and collected by the school district in that year or subsequent years, as the governing body determines. The aggregate amount of local school funds set aside in or for any subsequent year for the retirement of the notes may not exceed, in any one subsequent year, 10 percent of the local school funds collected during that year. The district may issue the notes only if approved by majority vote of the qualified voters voting in an election conducted in the manner provided by Section 45.003 for approval of bonds.

(e) The governing body of an independent school district that governs a junior college district under Subchapter B, Chapter 130, in a county with a population of more than two million may dedicate a specific percentage of the local tax levy to the use of the junior college district for facilities and equipment or for the maintenance and operating expenses of the junior college district. To be effective, the dedication must be made by the governing body on or before the date on which the governing body adopts its tax rate for a year. The amount of local tax funds derived from the percentage of the local tax levy dedicated to a junior college district from a tax levy may not exceed the amount that would be levied by five percent of the effective tax rate for the tax year calculated as provided by Section 26.04, Tax Code, on all property taxable by the school district. All real property purchased with these funds is the property of the school district, but is subject to the exclusive control of the governing body of the junior college district for as long as the junior college district uses the property for educational purposes.

(f) Funds from a junior college district branch campus maintenance tax levied by a school district board of trustees under Section 130.087 may be used as provided by that section.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th

Leg., ch. 1071 (S.B. 1873), § 23, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 10, effective September 1, 2011.)

Sec. 45.106. Use of County Available Fund Apportionment for Area Schools Career and Technology Education.

(a) A school district or accumulation of districts that operates a school designated as an area school for career and technology education purposes or that participates in a designated area career and technology education program shall use its annual county available school fund apportionment, if any, in the operation of the area school or program or in financing facilities for the school, notwithstanding any laws to the contrary.

(b) A school district complying with Subsection (a) may not be held accountable for or charged with county available school funds in determining the district's eligibility for minimum foundation school program funds.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.107. Investment of Gifts, Devises, and Bequests.

A gift, devise, or bequest made to a school district to provide college scholarships for graduates of the district may be invested by the board of trustees of the district as provided by Section 117.004, Property Code, unless otherwise specifically provided by the terms of the gift, devise, or bequest.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1103 (H.B. 2204), § 9, effective January 1, 2004.)

Sec. 45.108. Borrowing Money for Current Maintenance Expenses.

(a) Independent or consolidated school districts may borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable or nonnegotiable notes, except that the loans may not at any time exceed 75 percent of the previous year's income. The notes may be payable from and secured by a lien on and pledge of any available funds of the district, including proceeds of a maintenance tax. The term "maintenance expenses" or "maintenance expenditures" as used in this section means any lawful expenditure of the school district other than payment of principal of and interest on bonds. The term includes expenditures relating to notes issued to refund notes previously issued under this section if the refunding notes are coterminous with the refunded obligation. The term also includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by school districts or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties. Notes issued pursuant to this section may be issued to mature in not more than 20 years from their date. Notes issued for a term longer than one year must be treated as "debt" as defined in Section 26.012(7), Tax Code.

(b) Notes may be issued under this section only after a budget has been adopted for the current school year.

(c) Notes issued under this section must be authorized by resolution adopted by a majority vote of the board of trustees, signed by the president or vice president and attested by the secretary of the board.

(d) A note issued under this section may contain a certification that it is issued pursuant to and in compliance with this section and pursuant to a resolution adopted by the board of trustees. The certification is sufficient evidence that the note is a valid obligation of the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.35, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 1018 (H.B. 2610), § 2, effective September 1, 2013.)

Sec. 45.109. Contracts for Athletic Facilities.

(a) Any independent school district, acting by and through its board of trustees, may contract with any corporation, municipality, or institution of higher education, as defined by Section 61.003, located wholly or partially in its boundaries, for the use of any stadium and other athletic facilities owned by or under the control of the other entity. The contract may be for any period not exceeding 75 years and may contain terms agreed on by the parties.

(a-1) An independent school district and an institution of higher education, as defined by Section 61.003, located wholly or partially in the boundaries of the county in which the district is located may contract for the district to contribute district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education. A district may contribute district resources under this subsection only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility.

(a-2) One or more independent school districts and an institution of higher education, as defined by Section 61.003, may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the institution of higher education. A district may contribute district resources under this subsection only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility, including authorizing the enrollment of district students in courses offered at that facility.

(b) The district may enter into a contract for the use of athletic facilities for any purpose related to sports activities and other physical education programs for the students at the public schools of the district.

(c) The consideration for a contract under this section may be paid from any source available to the independent school district. If voted as provided by this section, the district may pledge to the payment of the contract an annual maintenance tax in an amount sufficient, without limitation, to provide all of the consideration. If voted and pledged, the maintenance tax shall be assessed, levied, and collected annually in the same manner as provided by general law applicable to independent school districts for other maintenance taxes.

(d) A maintenance tax may not be pledged to the payment of any contract under this section or assessed, levied, or collected unless an election is held in the district and the maintenance tax is favorably voted by a majority of the qualified voters of the district voting at the election. The election order for an election under this subsection must include the polling place or places and any other matters considered advisable by the board of trustees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 74, effective September 1, 2009.)

Sec. 45.110. Authorized But Unissued Bonds.

(a) This section applies to any independent school district that has previously voted or authorized school bonds for a specific purpose or purposes and the purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of the bonds authorized remain unissued.

(b) The board of trustees of the district may, on its own motion, order an election to submit to the qualified voters of the district the proposition of whether or not the authorized but unissued bonds may be issued, sold, and delivered for other and different purposes specified in the election order and the election notice. The election shall be ordered, held, and conducted in the same form and manner as that at which the bonds were originally authorized.

(c) If a majority of those voting at the election vote in favor of the sale and delivery of the unissued bonds and the use of the proceeds of the bonds for the purpose or purposes specified in the election order and the election notice, the board of trustees may issue, sell, and deliver the bonds and use the proceeds of the bonds for the purpose or purposes authorized at the election.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.111. Certificates of Indebtedness; Issuance by Certain School and Junior College Districts.

(a) Any school district, including a junior college district, situated in a county with a population of 200,000 or more may issue interest-bearing certificates of indebtedness to provide funds for erecting or equipping school buildings in the boundaries of the district or refinancing outstanding certificates as provided by this section. The term "certificates," as used in this section, includes all obligations authorized to be issued under this section and the interest on those obligations.

(b) The governing body of the district shall provide for the payment of the certificates issued under this section by appropriating and pledging local school funds derived from maintenance taxes levied and assessed under Sections 45.002 and 130.122; Chapter 273, Acts of the 53rd Legislature, Regular Session, 1953 (Article 2784g, Vernon's Texas Civil Statutes); or other similar law that limits the amount of tax that may be levied for maintenance purposes, as distinguished from bond requirements. The appropriation and pledge may be in the nature of a continuing irrevocable pledge to apply the first moneys collected annually from the tax levy to the payment of the obligations or by the irrevocable present levy and appropriation of the amount of the maintenance tax required to meet the annual debt service requirements of the obligations, in which event the governing body shall covenant to annually set aside the amount in the annual tax levy, showing the same is a portion of the maintenance tax. The governing body shall annually budget the amount required to pay the principal and interest of the obligations that may be scheduled to become due in any fiscal year. This section may not be construed as permitting the levy of a maintenance tax in excess of the amount approved by the qualified voters of the district.

(c) A district may not at any one time have certificates outstanding and unpaid in principal amount in excess of $250,000, unless the excessive amount becomes the obligation of the district by assumption under Subsection (k) or the new certificates are being issued to refund or refinance outstanding obligations under Subsection (i).

(d) The principal amount of certificates that may be authorized at any one time and the scheduling of their principal maturity are further restricted as follows:

(1) if the assessed valuation is more than $1 million and less than $15 million, the limiting factor is 25 cents;

(2) if the assessed valuation is $15 million or more but less than $35 million, the limiting factor is 15 cents; and

(3) if the assessed valuation is $35 million or more, the limiting factor is 5 cents.

(e) Assessed valuation means the valuation for school district purposes on the tax rolls of the district most recently approved before the authorization of the certificates. The limiting factor for a particular district, as prescribed by Subsection (d), is multiplied by the assessed valuation of the district, and the product is the maximum amount of debt service requirements on the certificates that may be scheduled to become due in any fiscal year on a cumulative basis. A district that has an assessed valuation less than $1 million may not issue certificates under this section.

(f) Certificates authorized to be issued under this section shall be payable at the times and be in such form and denomination or denominations either in coupon form or registered as to principal, interest, or both. The certificates may contain options for redemption before the scheduled maturity and may be payable at the place and may contain other provisions as the governing body of the district determines. A certificate may not mature over a period in excess of 25 years from the date of the certificate or bear interest at a rate in excess of seven percent per annum.

(g) Except if issued in exchange for certificates outstanding as provided by Subsection (i), the certificates shall be sold for cash at not less than the face or par value plus accrued interest. The proceeds shall be applied for the purpose for which the certificates were issued, except that all accrued interest and premium received, if any, shall be deposited in the interest and sinking fund established for the payment of the obligations. The cost of issuing the obligations, including attorneys', printing, and fiscal fees, may be paid from the proceeds, except if certificates are sold under Subsection (i).

(h) The certificates, including interest whether issued in coupon or registered form, are securities within the meaning of Chapter 8, Business & Commerce Code, and that chapter applies to the certificates after their approval by the attorney general and registration by the comptroller.

(i) Each governing body may refund or refinance outstanding certificates by issuing new interest-bearing certificates within the limitations and conditions provided in this section. The new certificates shall be issued and delivered in lieu of and on surrender to the comptroller and the cancellation of the obligations being refunded, and the comptroller shall register the new certificates and deliver them in accordance with the order authorizing their issuance. The new certificates may be issued in accordance with Subchapter A, Chapter 1207, Government Code, and delivered in accordance with Subchapter B or C of that chapter.

(j) A certified copy of all proceedings relating to the authorization of the certificates shall be submitted to the attorney general.

(k) Certificates issued under this section are an indebtedness of the school district issuing them, but the holder of a certificate does not have the right to demand payment out of any fund other than those pledged to its payment. If the boundary lines of any issuing district are changed while the certificates remain outstanding, the indebtedness shall be adjusted or assumed as provided under general law for the adjustment of bond indebtedness payable from taxation.

(*l*) For purposes of this section, the governing body of a common school district is the commissioners court of the county having administrative jurisdiction. The governing body of an independent school district, a rural high school district, or a junior college district is its board of trustees, and the governing body of a municipally controlled school district is the city or town council or commission. Certificates shall be authorized by order of the governing body of the district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.213, effective September 1, 2001.)

Sec. 45.112. Contracts for Investment of Debt Service Funds.

(a) A school district, including a junior college district or community college district, may enter into a contract with a term not to exceed seven years to purchase investments with the proceeds of taxes levied or to be levied by the district for the purpose of paying debt service on bonds issued by the district.

(b) A contract under this section may provide for the purchase of investments at a stated yield or yields.

(c) Before entering a contract under this section, a school district must solicit and receive bids from at least three separate providers. The district must accept the qualifying bid that provides for the highest yield investments over the term of the contract.

(d) A contract under this section may provide only for the purchase of an obligation described by Section 2256.009(a)(1), Government Code, other than an obligation described by Section 2256.009(b) of that code.

(Enacted by Acts 1999, 76th Leg., ch. 1535 (S.B. 1089), § 1, effective June 19, 1999.)

Sec. 45.113. Trust for County Permanent School Fund.

(a) Notwithstanding former Subchapter E, Chapter 17, as that subchapter existed on May 1, 1995, the commissioners court of a county may:

(1) sell or otherwise dispose of county school lands in the manner determined by the court;

(2) establish an irrevocable trust for the proceeds of a sale or other disposition under Subdivision (1); and

(3) invest the principal of a trust created under Subdivision (2) in any investment permitted for other county funds under Chapter 2256, Government Code.

(b) The members of the commissioners court and their successors in office must be the sole trustees of a trust established under Subsection (a)(2). The trustees may not delegate the authority to manage or invest the trust but may contract with qualified persons for investment advice.

(c) The principal of a trust established under Subsection (a)(2) constitutes a portion of the county permanent school fund and must be held in perpetuity for the benefit of the public schools in the county. The income of a trust established under Subsection (a)(2) constitutes a portion of the county available school fund and may be distributed as permitted by law.

(Enacted by Acts 2007, 80th Leg., ch. 641 (H.B. 890), § 1, effective June 15, 2007.)

SUBCHAPTER F
ATHLETIC STADIUM AUTHORITIES

Sec. 45.151. Definitions.

In this subchapter:

(1) "District" means any independent school district.

(2) "Stadium" means the structural and associated facilities designed for staging and holding athletic contests and other events.

(3) "Authority" means an athletic stadium authority created under this subchapter.

(4) "Board of directors" means the board of directors of the authority.

(5) "Bond resolution" means the resolution authorizing the issuance of revenue bonds.

(6) "Trust indenture" means the mortgage, deed of trust, or other instrument pledging revenues of or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the authority.

(7) "Trustee" means the trustee under the trust indenture.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.152. Creation of Authority.

(a) If the boards of trustees of two districts find that it is to the best interest of the districts to create an athletic stadium authority to include the districts, each board of trustees shall adopt a resolution creating an authority and designating the name by which it shall be known.

(b) An authority is a body politic and corporate. It must have a seal, may sue and be sued, and may make, amend, and repeal its bylaws.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.153. Board of Directors.

(a) An authority is governed by a board of directors consisting of seven members. The members of the board serve terms ending May 1. A member's term may not exceed two years. The board of trustees of each district shall each appoint three directors, and the appointees shall by majority vote appoint a seventh director.

(b) The board of directors shall elect from among the directors a president and vice president. The board shall elect a secretary and a treasurer who may or may not be directors and may elect other officers as authorized by the authority's bylaws. The offices of secretary and treasurer may be combined. The president has the same right to vote on all matters as other members of the board.

(c) A majority of the members of the board constitutes a quorum, and when a quorum is present, action may be taken by a majority vote of directors present.

(d) The board may employ a manager and other employees, experts, and agents or may delegate to the manager the power to employ and discharge employees. The board may employ legal counsel.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.154. Construction, Acquisition, and Operation of Stadium.

An authority may construct, enlarge, furnish, and equip stadia, purchase existing stadia, furnishings, and equipment for its stadia, and operate and maintain stadia. A stadium need not be located inside a district creating the authority.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.155. Bonds.

(a) An authority may issue revenue bonds to provide funds for any of its purposes. The bonds shall be payable from and secured by a pledge of all or any part of the revenue to be derived from the operation of the stadium or stadia and any other revenues resulting from the ownership of stadium properties. The bonds may be additionally secured by a mortgage or deed of trust on property of the authority.

(b) The bonds must be authorized by resolution adopted by a majority vote of a quorum of the board of directors. The bonds shall be signed by the president or vice president and countersigned by the secretary, or either or both of their facsimile signatures may be printed on the bonds. The seal of the authority shall be impressed or printed on the bonds.

(c) The bonds shall mature serially or otherwise in not to exceed 40 years. Appropriate provisions may be inserted in the resolution authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer bonds and vice versa.

(d) Provisions may be made in the bond resolution or trust indenture for the substitution of new bonds for those lost or mutilated. When bonds are approved by the attorney general and registered by the comptroller, it is not necessary to obtain the approval of the attorney general or registration by the comptroller as to converted or substituted bonds.

(e) Bonds constituting a junior lien on the revenue or properties may be issued unless prohibited by the bond resolution or trust indenture. Parity bonds may be issued under conditions specified in the bond resolution or trust indenture.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.156. Contracts with School Districts.

(a) Any district, acting by and through its board of trustees, may contract with any athletic stadium authority organized under this subchapter for the use of any stadium owned by the authority. The contract may be for any period not exceeding 75 years and may contain terms agreed on by the parties.

(b) The district may enter into a contract for the use of the stadium for any purpose related to sports activities and other physical education programs for the students at the public schools operated and maintained by the district.

(c) The consideration payable by the district under a contract may be paid from any source available to the district. If voted, the district may pledge to the payment of the contract an annual maintenance tax in an amount sufficient, without limitation, to provide all or part of the consideration. If voted and pledged, the maintenance tax shall be assessed, levied, and collected annually in the same manner as provided by general law applicable to independent school districts for other maintenance taxes. A maintenance tax may not be pledged to the payment of any contract or assessed, levied, or collected unless an election is held in the district, and the maintenance tax for that purpose is favorably voted by a majority of the qualified voters of the district. The election order for an election under this subsection must include the polling place or places and any other matters considered advisable by the board of trustees.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.157. Examination of Bonds by Attorney General.

Bonds issued under this subchapter and the record relating to their issuance shall be submitted to the attorney general.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.158. Charges for Use of Stadium.

(a) The board of directors shall charge sufficient rates for services rendered by the stadium and shall use other sources of its revenues so that revenues will be produced sufficient to:

(1) pay all expenses in connection with the ownership, operation, and upkeep of the stadium;

(2) pay the interest on the bonds as it becomes due;

(3) create a sinking fund to pay the bonds as they become due; and

(4) create and maintain a bond reserve fund and other funds as provided in the bond resolution or trust indenture.

(b) The bond resolution or trust indenture may prescribe systems, methods, routines, and procedures under which the stadium shall be operated.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.159. Depository.

An authority may select a depository according to the procedures provided by law for the selection of independent school district depositories.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.160. Tax Exemption.

Recognizing the fact that the property owned by an authority will be held for public purposes only and will be devoted exclusively to the use and benefit of the public, it is exempt from taxation of every character.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.161. Eminent Domain.

For the purpose of carrying out any power conferred by this subchapter, an authority may acquire the fee simple title to land and other property and easements by condemnation in the manner provided by Chapter 21, Property Code. An authority is a municipal corporation within the meaning of Section 21.021(c), Property Code. The amount of and character or interest in land, other property, and easements to be acquired shall be determined by the board of directors.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.162. Investment of Bond Proceeds.

In addition to other powers, an authority may invest the proceeds of its bonds, until that money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States, to the extent authorized in the bond resolution or trust indenture or in both.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.163. Acceptance of Gifts.

The board of directors may accept donations, gifts, and endowments to be held and administered as may be required by the respective donors, to the extent that those requirements do not contravene law.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER G
SCHOOL DISTRICT DEPOSITORIES

Sec. 45.201. Definitions.

In this subchapter:

(1) "School district" means any independent school district.

(2) "Bank" means a bank, a savings and loan association, or a savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state. The term does not include any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation.

(3) "Time deposit," "time certificate," "certificate of deposit," and "time deposit-open account" have the definitions adopted for those terms by the Board of Governors of the Federal Reserve System.

(4) "Approved securities" means:

(A) bonds of this state or any agency or political subdivision of this state;

(B) all evidences of indebtedness legally issued by the board of trustees of the depositing school district;

(C) all debt securities that are a direct obligation of the treasury of the United States;

(D) reducing principal balance securities, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities;

(E) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities; and

(F) those securities provided for by Article 842, Revised Statutes, and Section 1, Chapter 160, General Laws, Acts of the 43rd Legislature, 1933 (Article 842a, Vernon's Texas Civil Statutes).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), art. 7, § 7.49, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 344 (H.B. 2066), art. 5, § 5.002, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 39, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 417 (S.B. 1693), §§ 1, 2, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1199 (H.B. 573), §§ 1, 2, effective June 18, 2005.)

Sec. 45.202. Selection of Depository.

The school depository or depositories of every independent school district may be selected only as provided by this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.203. Depository Must Be a Bank.

A school depository must be a bank located in this state.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.204. Conflict of Interest.

(a) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank, the bank is not disqualified from bidding, submitting a proposal, or becoming the depository of the district if the bank is selected by a majority vote of the board of trustees of the district or a majority vote of a quorum when only a quorum is present.

(b) If a member of the board of trustees of a school district is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become a depository for the district, the member may not vote on awarding a depository contract to the bank, and the contract must be awarded by a majority vote of the trustees as provided by Subsection (a) who are not either a stockholder, officer, director, or employee of a bank receiving a district depository contract.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 322 (H.B. 2411), § 1, effective June 15, 2007.)

Sec. 45.205. Term of Contract.

(a) Except as provided by Subsection (b), the depository bank when selected shall serve for a term of two years and until its successor is selected and has qualified.

(b) A school district and the district's depository bank may agree to extend a depository contract for two additional two-year terms. An extension under this subsection is not subject to the requirements of Section 45.206.

(c) The contract term and any extension must coincide with the school district's fiscal year.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1308 (S.B. 656), § 1, effective June 20, 1997; am. Acts 2007, 80th Leg., ch. 322 (H.B. 2411), § 2, effective June 15, 2007.)

Sec. 45.206. Bid or Request for Proposal Notices; Bid and Proposal Forms.

(a) Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals.

(a-1) If a school district chooses under Subsection (a) to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board of Education rule.

(a-2) If a school district chooses under Subsection (a) to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board of Education rule.

(b) The school district may add to the uniform bid or proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district.

(c) Interest rates may be stated in the bid or proposal either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case in a uniform manner, that will permit comparison with other bids or proposals received.

(d) If the school district chooses under Subsection (a) to use requests for proposals, the district shall state the selection criteria, including the factors specified under Section 45.207(c), in the request for proposals and shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 322 (H.B. 2411), § 3, effective June 15, 2007.)

Sec. 45.207. Award of Contract.

(a) A school district shall award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, as determined under Subsection (c), except that the district may award the contract as provided by Subsection (a-1) if:

(1) the district:

(A) receives tying bids for the contract; or

(B) after evaluating the proposals for the contract, ranks two or more proposals equally;

(2) each bank submitting a tying bid or proposal has bid or proposed to pay the district the maximum interest rates allowed by law by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation; and

(3) the tying bids or proposals are otherwise equal in the judgment and discretion of the board of trustees of the district.

(a-1) In the case of tying bids or proposals, the board of trustees may award the depository contract by:

(1) determining by lot which of the banks submitting the tying bids or proposals will receive the contract; or

(2) awarding a contract to each of the banks submitting the tying bids or proposals.

(b) The board of trustees may, during the period of the contract, determine the amount of funds to be deposited in each depository bank and determine the account services offered in the bid or proposal form that are to be provided by each bank in its capacity as school district depository. All funds received by the district from or through the agency shall be deposited, at the district's option, in one depository bank or invested in a public funds investment pool created under Chapter 791, Government Code, to be designated by the district.

(c) The board of trustees of the school district shall at a regular or special meeting consider in accordance with this subsection each bid or proposal received. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, the board of trustees shall consider:

(1) the interest rate bid or proposed on time deposits;

(2) charges for keeping district accounts, records, and reports and furnishing checks;

(3) the ability of the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository; and

(4) any other matter that in the judgment of the board of trustees would be to the best interest of the school district.

(d) The board of trustees of the school district has the right to reject any and all bids or proposals.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 322 (H.B. 2411), § 3, effective June 15, 2007.)

Sec. 45.208. Depository Contract; Bond.

(a) The bank or banks selected as the depository or depositories and the school district shall enter into a depository contract or contracts, bond or bonds, or other necessary instruments setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education. The parties shall attach to the contract and incorporate by reference the bid or proposal of the depository.

(b) The depository bank shall attach to the contract and file with the school district a bond in an initial amount equal to the estimated highest daily balance, determined by the board of trustees of the district, of all deposits that the school district will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation insurance. The bond must be payable to the school district and must be signed by the depository bank and by some surety company authorized to do business in this state. The depository bank shall increase the amount of the bond if the board of trustees determines it to be necessary to adequately protect the funds of the school district deposited with the depository bank.

(c) The bond shall be conditioned on:

(1) the faithful performance of all duties and obligations devolving by law on the depository;

(2) the payment on presentation of all checks or drafts on order of the board of trustees of the school district, in accordance with its orders entered by the board of trustees according to law;

(3) the payment on demand of any demand deposit in the depository;

(4) the payment, after the expiration of the period of notice required, of any time deposit in the depository;

(5) the faithful keeping of school funds by the depository and the accounting for the funds according to law; and

(6) the faithful paying over to the successor depository all balances remaining in the accounts.

(d) The bond and the surety on the bond must be approved by the board of trustees of the school district. A premium on the depository bond may not be paid out of school district funds.

(e) A copy of the depository contract and bond shall be filed with the agency.

(f) In lieu of the bond required under Subsection (b), the depository bank may deposit or pledge, with the school district or with a trustee designated by the school district, approved securities in an amount sufficient to adequately protect the funds of the school district deposited with depository bank. A depository bank may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the school district deposited with the depository bank. The school district shall designate from time to time the amount of approved securities or the aggregate amount of the bond and approved securities to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank may substitute approved securities on obtaining the approval of the school district. For purposes of this subsection, the approved securities are valued at their market value.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 322 (H.B. 2411), § 4, effective June 15, 2007.)

Sec. 45.209. Investment of District Funds.

The school district may provide in its bid or proposal blank for the right to place on time deposits with savings and loan institutions located in this state only funds that are fully insured by the Federal Deposit Insurance Corporation. A district may not place on deposit with any savings and loan institution any bond or certificate of indebtedness proceeds as provided by Section 45.102. A depository bank may not be compelled without its consent to accept on time deposit any bond proceeds under Section 45.102, but a depository bank may offer a bid or proposal of interest equaling the highest bid or proposal of interest for the time deposit of the bond proceeds tendered by another bank. If the depository bank equals the bid or proposal, it is entitled to receive the bond proceeds on time deposit.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 322 (H.B. 2411), § 5, effective June 15, 2007.)

SUBCHAPTER H
ASSESSMENT AND COLLECTION OF TAXES

Sec. 45.231. Employment of Assessor and Collector.

(a) The board of trustees of an independent school district may employ a person to assess or collect the school district's taxes and may compensate the person as the board of trustees considers appropriate.

(b) This section does not prohibit an independent school district from providing for the assessment or collection of the school district's taxes under a method authorized by Subchapter B, Chapter 6, Tax Code.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

Sec. 45.232. Alternate Methods of Selection Under Former Law.

An independent school district that used a method of selecting the assessor or collector of the school district's taxes for the 1994 tax year that was authorized by former Subchapter F, Chapter 23, as that subchapter existed on January 1, 1994, but that is not authorized by Section 45.231 or by Subchapter B, Chapter 6, Tax Code, may continue to use that method of selection until the school district uses another method authorized by Section 45.231 or by Subchapter B, Chapter 6, Tax Code, to determine how the assessment or collection is performed.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 1, effective May 30, 1995.)

SUBCHAPTER I
INTERCEPT PROGRAM TO PROVIDE CREDIT ENHANCEMENT FOR BONDS

Sec. 45.251. Definitions.

In this subchapter:

(1) "Board" means the State Board of Education.

(2) "Foundation School Program" means the program established under Chapters 41, 42, and 46, or any successor program of state appropriated funding for school districts in this state.

(3) "Paying agent" means the financial institution that is designated by a school district as the district's agent for the payment of the principal of and interest on bonds for which credit enhancement is provided under this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.252. Intercept Credit Enhancement Program.

(a) If a school district's application for guarantee of district bonds by the corpus and income of the permanent school fund as provided by Subchapter C is rejected, the district may apply under this subchapter for credit enhancement of bonds described by Section 45.054 by money appropriated for the

Foundation School Program, other than money that is appropriated to school districts specifically:

(1) as required under the Texas Constitution; or

(2) for assistance in paying debt service.

(b) The same school district bonds may not benefit under both Subchapter C and this subchapter.

(c) Notwithstanding any amendment of this subchapter or other law, the credit enhancement provided under this subchapter for school district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.253. Limitation on Intercept Credit Enhancement.

(a) In each month of each fiscal year, the commissioner shall determine the amount of funds available to make payments under this subchapter from the Foundation School Program through the end of the fiscal year and the amounts due under this code to public schools from the Foundation School Program through the end of the fiscal year. The commissioner may revise a determination under this subsection during the fiscal year as appropriate.

(b) The commissioner may not endorse particular bonds for credit enhancement under this subchapter until the commissioner has:

(1) made the determinations required under Subsection (a); and

(2) determined that the endorsement will not cause the projected debt service coming due during the remainder of the fiscal year for bonds provided credit enhancement under this subchapter to exceed the lesser of:

(A) one-half of the amount of funds due to public schools from the Foundation School Program for the remainder of the fiscal year; or

(B) one-half of the amount of funds anticipated to be on hand in the Foundation School Program to make payments for the remainder of the fiscal year.

(c) The commissioner may not endorse particular bonds for credit enhancement under this subchapter unless the commissioner has determined that the maximum annual debt service on the bonds during any state fiscal year will not exceed the lesser of:

(1) one-half of the amount of funds due to public schools from the Foundation School Program for the current fiscal year; or

(2) one-half of the amount of funds anticipated to be on hand in the Foundation School Program to make payments for the current fiscal year.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.254. Eligibility.

To be eligible for approval by the commissioner for credit enhancement under this subchapter:

(1) bonds must be issued in the manner provided by Section 45.054; and

(2) payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.2541. Intercept of Foundation School Program Appropriations As Credit Enhancement.

(a) Money appropriated for the Foundation School Program that may be used for the purpose under this subchapter and under any other law, rule, or regulation shall be used to provide credit enhancement for eligible bonds as provided by this subchapter, the General Appropriations Act, and board rule if using the permanent school fund to guarantee particular bonds would result in:

(1) a total amount of outstanding bonds guaranteed by the permanent school fund exceeding the amount authorized under:

(A) Section 45.053; or

(B) federal law or regulations; or

(2) the use of a portion of the cost value of the permanent school fund reserved under Section 45.0531, as determined by the board.

(b) If Foundation School Program appropriations are not sufficient in any year to pay principal or interest that becomes due on bonds for which credit enhancement is provided under this subchapter, the payment shall be made from the following year's Foundation School Program appropriations that may be used for the purpose under this subchapter before those appropriations are used for any other Foundation School Program purpose.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.255. Application for Credit Enhancement.

(a) A school district seeking credit enhancement of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for a guarantee under Subchapter C and then, if that guarantee is rejected, for credit enhancement under this subchapter.

(b) An application under Subsection (a) must:

(1) include the information required by Section 45.055(b); and

(2) be accompanied by a fee set by board rule in an amount designed to cover the costs of administering the programs to provide the guarantee or credit enhancement of eligible bonds.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.256. Investigation.

(a) Following receipt of an application under Section 45.255, the commissioner shall conduct an investigation of the applicant school district as provided for an investigation under Section 45.056(a).

(b) If following the investigation under Subsection (a) the commissioner is satisfied that the school district's bonds should be guaranteed under Subchapter C or provided credit enhancement under this subchapter, as applicable, the commissioner shall endorse the bonds.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.257. Credit Enhancement Endorsement.

(a) The commissioner shall endorse bonds approved for credit enhancement under this subchapter in substantially the same manner provided under Section 45.057 for endorsing bonds approved under Subchapter C.

(b) The credit enhancement is not effective unless the attorney general approves the bonds under Section 45.005.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.258. Notice of Failure or Inability to Pay.

Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on a bond for which credit enhancement is provided under this subchapter, but not later than the 10th day before maturity date, the school district shall notify the commissioner.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.259. Payment from Intercepted Funds.

(a) Immediately following receipt of notice under Section 45.258, the commissioner shall instruct the comptroller to transfer to the district's paying agent from appropriations to the Foundation School Program that may be used for the purpose under Section 45.252 and other law the amount necessary to pay the maturing or matured principal or interest.

(b) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due.

(c) The procedures prescribed by Subsections (a) and (b) apply to each payment of principal or interest on bonds as the payment becomes due until the bonds mature or are defeased in accordance with state law.

(d) If money appropriated for the Foundation School Program is used for purposes of this subchapter and as a result there is insufficient money to fully fund the Foundation School Program, the commissioner shall, to the extent necessary, reduce each school district's foundation school fund allocations, other than any portion appropriated from the available school fund, in the same manner provided by Section 42.253(h) for a case in which school district entitlements exceed the amount appropriated. The following fiscal year, a district's entitlement under Section 42.253 is increased by an amount equal to the reduction under this subsection.

(e) A payment made under this section by the state on behalf of a school district of funds the district owes on bonds for which credit enhancement is provided under this subchapter creates a repayment obligation of the district to the state regardless of the maturity date of, or any payment of interest on, the bonds.

(f) This section does not create a debt of the state under the Texas Constitution or, except to the extent provided by this subchapter, create a payment obligation.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.260. Bonds Not Accelerated on Failure to Pay.

If a school district fails to pay principal or interest on a bond for which credit enhancement is provided under this subchapter when the amount matures, other amounts not yet mature are not accelerated and do not become due by virtue of the district's failure to pay amounts matured.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.261. Reimbursement of Foundation School Program.

(a) If the commissioner orders payment from the money appropriated to the Foundation School Program on behalf of a school district that is not required to reduce its wealth per student under

Chapter 41, the commissioner shall direct the comptroller to withhold the amount paid from the first state money payable to the district. If the commissioner orders payment from the money appropriated to the Foundation School Program on behalf of a school district that is required to reduce its wealth per student under Chapter 41, the commissioner shall increase amounts due from the district under that chapter in a total amount equal to the amount of payments made on behalf of the district under this subchapter. Amounts withheld or received under this subsection shall be used for the Foundation School Program.

(b) In accordance with commissioner rules, the commissioner may authorize reimbursement of the Foundation School Program in a manner other than that provided by this section.

(c) The commissioner may order a school district to set an ad valorem tax rate capable of producing an amount of revenue sufficient to enable the district to:

(1) provide reimbursement under this section; and

(2) pay the remaining principal of and interest on the bonds as the principal and interest become due.

(d) If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Subchapter E, Chapter 39, including appointment of a board of managers or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

(e) Any part of a school district's tax rate attributable to producing revenue for purposes of Subsection (c)(1) is considered part of the district's:

(1) current debt rate for purposes of computing a rollback tax rate under Section 26.08, Tax Code; and

(2) interest and sinking fund tax rate.

(f) On reimbursement by a school district as required by this section, the commissioner shall pay to the district any amount withheld under this section.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.013, effective September 1, 2011.)

Sec. 45.262. Repeated Failure to Pay.

(a) If a total of two or more payments are made under Subchapter C or this subchapter on the bonds of a school district and the commissioner determines that the district is acting in bad faith under the guarantee program under Subchapter C or the credit enhancement program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the district and the district's officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

(b) Jurisdiction of proceedings under this section is in district court in Travis County.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.263. Rules.

(a) The commissioner shall adopt rules necessary for the administration of the bond credit enhancement program under this subchapter.

(b) In adopting rules under Subsection (a), the commissioner shall establish an annual deadline by which a school district must pay the debt service on bonds for which credit enhancement is provided under this subchapter. The deadline established may not be later than the 10th day before the date specified under Section 42.259 for payment to school districts of the final Foundation School Program installment for a state fiscal year.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

SUBCHAPTER J
OPEN-ENROLLMENT CHARTER SCHOOL FACILITIES CREDIT ENHANCEMENT PROGRAM

Sec. 45.301. Definitions.

In this subchapter:

(1) "Charter holder" has the meaning assigned by Section 12.1012.

(2) "Program" means the open-enrollment charter school facilities credit enhancement program established under this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.302. Establishment of Program.

(a) The commissioner by rule may establish an open-enrollment charter school facilities credit enhancement program to assist charter holders in obtaining financing for the purchase, repair, or renovation of real property, including improvements to real property, for facilities of open-enrollment charter schools.

(b) The commissioner may adopt a structure and procedures for the program that are substantially similar to the structure and procedures for the credit enhancement program for school district bonds under Subchapter I.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.303. Limitation on Participation; Minimum Requirements for Debt Service Reserve.

In adopting rules under Section 45.302, the commissioner may:

(1) limit participation in the program to charter holders who hold charters for open-enrollment charter schools that meet standards established by the commissioner, including standards for financial stability, compliance with applicable state and federal program requirements, and student academic performance; and

(2) impose minimum requirements for a debt service reserve to secure repayment of obligations for which credit enhancement is provided under this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.304. Allocation of Portion of Foundation School Program Funds for Credit Enhancement.

(a) The commissioner may allocate not more than one percent of the amount appropriated for the Foundation School Program for purposes of the program under this subchapter.

(b) The funds allocated under this section may not be considered available for purposes of any other credit enhancement program.

(c) Only those Foundation School Program funds allocated under this section may be committed to the program under this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.305. Private Matching Funds Required; Use of Other State Funds.

(a) The commissioner may not implement the program unless private funds in an amount at least equal to the amount of state funds allocated under Section 45.304 are obligated to the program for at least the first 10 years of the term of obligations for which credit enhancement is provided under the program.

(b) The commissioner may use state funds allocated under Section 45.304 to pay any amount due for credit enhancement under the program and, subject to the terms of the applicable private credit obligation agreement, provide for payment of private funds to the Foundation School Program in an amount equal to at least one-half of the amount of the state funds paid. The commissioner may also use any other state funds available for the purpose to make payments under this subchapter or to reimburse the Foundation School Program for payments made under this subchapter from Foundation School Program funds.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.306. Repayment; Lien.

(a) If a charter holder on behalf of which the state makes a payment under the program does not immediately repay the Foundation School Program the amount of the payment, the commissioner shall withhold any funds due from the state to the charter holder as necessary to recover the total amount of state and private funds paid on behalf of the charter holder under the program.

(b) If a charter holder is for any reason, including revocation or surrender of a charter or bankruptcy, unable to repay any amount due under this subchapter, any loss of funds shall be shared equally between the Foundation School Program and the person providing the private funds obligated for credit enhancement under this subchapter.

(c) A charter holder for which credit enhancement is provided under this subchapter to purchase, repair, or renovate real property for open-enrollment charter school facilities must agree to execute a lien on that real property in a form prescribed by the commissioner and approved by the attorney general to secure repayment of all amounts due to the state from the charter holder, including reimbursement of any private funds paid on behalf of an open-enrollment charter school under this subchapter.

(d) A lien under this section must be filed in the real property records of each county in which the real property is located. A lien under this section has priority over any other claim against the real property except a lien granted to the holders of obligations issued to finance the acquisition of the real property and any security interest or lien existing before credit enhancement is provided under this subchapter.

(e) The commissioner shall notify a charter holder of any amount determined to be due to the state, including federal funds. If the full amount due to the state has not been repaid or recovered by the commissioner from other funds due to the charter holder within the current and subsequent school year, the commissioner may request the attorney general to file an action to foreclose on a lien under this section. Funds recovered from foreclosure of a lien under this section shall be credited first to any security interest or lien with priority over the lien under this section, then to the charter holder's obligation under this

section, and then to any other program to which the funds are due.

(f) Venue for a suit under this section is in Travis County.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.307. Status of Program.

(a) The program is separate from and does not create any claim to the credit enhancement program for school district bonds under Subchapter I.

(b) This subchapter does not create a debt of the state under the Texas Constitution or, except to the extent provided by this subchapter, create a payment obligation.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

Sec. 45.308. Rules.

If the commissioner establishes a program under this subchapter, the commissioner shall adopt rules to administer the program.

(Enacted by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 75, effective September 1, 2009.)

CHAPTER 46
ASSISTANCE WITH INSTRUCTIONAL FACILITIES AND PAYMENT OF EXISTING DEBT

Subchapter A. Instructional Facilities Allotment

Subchapter B. Assistance with Payment of Existing Debt

Subchapter C. Refinancing

SUBCHAPTER A
INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. Definition.

In this subchapter, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.23, effective September 1, 1999.)

Sec. 46.002. Rules.

(a) The commissioner may adopt rules for the administration of this subchapter.

(b) The commissioner's rules may limit the amount of an allotment under this subchapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.23, effective September 1, 1999.)

Sec. 46.003. School Facilities Allotment.

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$FYA = (FYL \times ADA \times BTR \times 100) - (BTR \times (DPV/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax

effort, which is $35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.

(b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.

(d) The amount budgeted by a district for payment of eligible bonds may include:

(1) bond taxes collected in the current school year;

(2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year, provided that the taxes were not used to generate other state financial assistance for the district; or

(3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.

(e) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(f) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.

(g) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(h) To receive state assistance under this subchapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.24, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 6, effective September 1, 2001.)

Sec. 46.004. Lease-Purchase Agreements.

(a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this subchapter:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter.

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this subchapter.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.25, effective September 1, 1999.)

Sec. 46.005. Limitation on Guaranteed Amount.

The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section 46.003 for a school district may not exceed the lesser of:

(1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or

(2) the greater of:

(A) $100,000; or

(B) the product of the number of students in average daily attendance in the district multiplied by $250.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997.)

Sec. 46.006. Shortage or Excess of Funds Appropriated for New Projects.

(a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this subchapter.

(b) A district's wealth per student is reduced for purposes of this section if a district has had substantial student enrollment growth in the preceding five-year period. The reduction is in addition to any reduction under Subsection (a) and is computed before the district's wealth per student is reduced under that subsection, if applicable. A district's wealth per student is reduced:

(1) by five percent, if the district has an enrollment growth rate in that period that is 10 percent or more but less than 15 percent;

(2) by 10 percent, if the district has an enrollment growth rate in that period that is 15 percent or more but less than 30 percent; or

(3) by 15 percent, if the district has an enrollment growth rate in that period that is 30 percent or more.

(c) A district's wealth per student is reduced by 10 percent for purposes of this section if the district does not have any outstanding debt at the time the district applies for assistance under this subchapter. The reduction is in addition to any reduction under Subsection (a) or (b) and is computed before the district's wealth per student is reduced under those subsections, if applicable.

(c-2) [Expired pursuant to Acts 2007, 80th Leg., ch. 1309 (S.B. 962), § 1, effective September 1, 2012.]

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), and (c).

(e) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this subchapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(f) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(g) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by the district's average daily attendance as determined under Section 42.005.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.26, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1309 (S.B. 962), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1309 (S.B. 962), § 2, effective September 1, 2012.)

Sec. 46.007. Refunding Bonds.

A school district may use state funds received under this subchapter to pay the principal of and interest on refunding bonds that:

(1) are issued to refund bonds eligible under Section 46.003;

(2) do not have a final maturity date later than the final maturity date of the bonds being refunded;

(3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and

(4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.27, effective September 1, 1999.)

Sec. 46.008. Standards.

(a) The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

(b) [Repealed by Acts 2009, 81st Leg., ch. 698 (H.B. 2763), § 5, effective December 31, 2009.]

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 1213 (H.B. 1886), § 10, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 698 (H.B. 2763), § 5, effective December 31, 2009.)

Sec. 46.0081. Security Criteria in Design of Instructional Facilities.

A school district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using funds allotted to the district under this subchapter shall consider, in the design of the instructional facility, appropriate security criteria.

(Enacted by Acts 2005, 79th Leg., ch. 780 (S.B. 11), § 7, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 620 (S.B. 1556), § 2, effective June 14, 2013.)

Sec. 46.009. Payment of School Facilities Allotments.

(a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this subchapter.

(b) If the amount appropriated for purposes of this subchapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253(h).

(c) Warrants for payments under this subchapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this subchapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this subchapter.

(f) If a school district would have received a greater amount under this subchapter for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter to subsequent distributions to the district under this subchapter.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.27, effective September 1, 1999.)

Sec. 46.010. Projects by More Than One District.

If two or more districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a guaranteed facilities yield amount of state and local funds that is 20 percent higher than the amount to which the district would otherwise be entitled under Section 46.005.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997.)

Sec. 46.011. Sale of Instructional Facility Financed with Instructional Facilities Allotment.

(a) If an instructional facility financed by bonds paid with state and local funds under this subchapter is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

(b) In this section, "net proceeds" means the difference between the total amount received from the sale less:

(1) the amount necessary to fully pay the outstanding principal of and interest on the bonds; and

(2) the school district's costs of the sale, as approved by the commissioner.

(Enacted by Acts 1997, 75th Leg., ch. 592 (H.B. 4), art. 1, § 1.04, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.28, effective September 1, 1999.)

Sec. 46.0111. Actions Brought for Defective Design, Construction, Renovation, or Improvement of Instructional Facility.

(a) In this section:

(1) "Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or oth-

erwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.

(2) "State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under this subchapter used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

(b) A school district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under this subchapter shall provide the commissioner with written notice of the action.

(c) The commissioner may join in the action on behalf of the state to protect the state's share in the action.

(d) A school district shall use the net proceeds from an action brought by the district for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under this subchapter to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Section 46.008 applies to the repair.

(e) The state's share is state property. The school district shall send to the comptroller any portion of the state's share not used by the school district to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Section 42.258 applies to the state's share under this subsection.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.05, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 46.012. Applicability to Open-Enrollment Charter Schools.

An open-enrollment charter school is not entitled to an allotment under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 30, effective September 1, 2001.)

Sec. 46.013. Multiple Allotments Prohibited.

A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter F, Chapter 42.

(Enacted by Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(22), effective September 1, 2003 (renumbered from Sec. 46.012).)

SUBCHAPTER B
ASSISTANCE WITH PAYMENT OF EXISTING DEBT

Sec. 46.031. Rules.

The commissioner may adopt rules for the administration of this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.29, effective September 1, 1999.)

Sec. 46.032. Allotment.

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

EDA = (EDGL X ADA X EDTR X 100) - (EDTR X (DPV/100))

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is $35 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

(b) The existing debt tax rate of the district under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) The amount budgeted by a district for payment of eligible bonds may include:

(1) bond taxes collected in the current school year;

(2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year, provided that the taxes were not used to generate other state financial assistance for the district; or

(3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.29, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 8, effective September 1, 2001.)

Sec. 46.033. Eligible Bonds.

Bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if:

(1) the district made payments on the bonds during the final school year of the preceding state fiscal biennium or taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; and

(2) the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.29, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 9, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 40, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 12, § 12.01, effective August 29, 2005; am. Acts 2007, 80th Leg., ch. 235 (H.B. 1922), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 76, effective September 1, 2009.)

Sec. 46.034. Limits on Assistance.

(a) The existing debt tax rate ("EDTR") under Section 46.032 may not exceed $0.29 per $100 of valuation, or a greater amount for any year provided by appropriation.

(b) The amount of state assistance to which a district is entitled under this subchapter may not exceed the amount to which the district would be entitled at the district's tax rate for the payment of eligible bonds for the final year of the preceding state fiscal biennium.

(b-1) Notwithstanding Subsection (b), a school district is entitled to state assistance under this subchapter based on the district's tax rate for the current school year if the district demonstrates to the commissioner's satisfaction that the district meets the criteria under Section 46.006(c-2).

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the final school year of the preceding state fiscal biennium or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

(d), (e) [Expired pursuant to Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 41, effective September 1, 2005.]

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.29, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), §§ 10, 12, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 41, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), art. 12, § 12.02, effective August 29, 2005; am. Acts 2007, 80th Leg., ch. 235 (H.B. 1922), § 3, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1309 (S.B. 962), § 3, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 77, effective September 1, 2009.)

Sec. 46.035. Payment of Assistance.

Section 46.009 applies to the payment of assistance under this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.29, effective September 1, 1999.)

Sec. 46.036. Applicability to Open-Enrollment Charter Schools.

An open-enrollment charter school is not entitled to an allotment under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 31, effective September 1, 2001.)

Sec. 46.037. Multiple Allotments Prohibited.

A school district is not entitled to state assistance under this subchapter based on taxes with respect to

which the district receives state assistance under Subchapter F, Chapter 42.
(Enacted by Acts 2001, 77th Leg., ch. 1156 (H.B. 2879), § 11, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(23), effective September 1, 2003 (renumbered from Sec. 46.036).)

SUBCHAPTER C
REFINANCING

Sec. 46.061. State Assistance for Refinancing.

(a) The commissioner by rule may provide for the payment of state assistance under this chapter to refinance school district debt. A refinancing may not increase the cost to the state of providing the assistance.

(b) The commissioner may allocate state assistance provided for a refinancing to Subchapter A, Subchapter B, or both, as appropriate.
(Enacted by Acts 1999, 76th Leg., ch. 396 (S.B. 4), art. 1, § 1.29, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), art. 7, § 7.007, effective September 1, 2009.)

TITLE 3
HIGHER EDUCATION

SUBTITLE A
HIGHER EDUCATION IN GENERAL

CHAPTER 51
PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION

Subchapter M. Engineering and Science Recruitment Fund [Repealed]

Subchapter U. Uniform Admission Policy

Subchapter Z. Miscellaneous Provisions

SUBCHAPTER M
ENGINEERING AND SCIENCE RECRUITMENT FUND [REPEALED]

Sec. 51.601. Findings and Purpose [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987.)

Sec. 51.602. Definitions [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987; am. Acts 1991, 72nd Leg., ch. 582 (S.B. 543), § 20, effective September 1, 1991.)

Sec. 51.603. Fund [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987; am. Acts 1990, 71st Leg., 6th C.S., ch. 26 (H.B. 32), § 1, effective September 1, 1990.)

Sec. 51.604. Use of Fund [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987; am. Acts 1991, 72nd Leg., ch. 582 (S.B. 543), § 21, effective September 1, 1991; am. Acts 2007, 80th Leg., ch. 609 (H.B. 387), § 1, effective June 15, 2007.)

Sec. 51.605. Fund Allocation [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987.)

Sec. 51.606. Eligible Programs [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987; am. Acts 1990, 71st Leg. , 6th C.S., ch. 26 (H.B. 32), § 1, effective September 1, 1990.)

Sec. 51.607. Advisory Committee [Repealed].

Repealed by Acts 1993, 73rd Leg., ch. 771 (H.B. 2585), § 19(17), effective September 1, 1993 and by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987; am. Acts 1990, 71st Leg., 6th C.S., ch. 26 (H.B. 32), § 3, effective September 1, 1990; am. Acts 1991, 72nd Leg., ch. 582 (S.B. 543), § 22, effective September 1, 1991.)

Sec. 51.608. Program Review [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(2), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 752 (H.B. 102), § 1, effective August 31, 1987.)

SUBCHAPTER U
UNIFORM ADMISSION POLICY

Sec. 51.801. Definitions.

In this subchapter, "general academic teaching institution," "governing board," "medical and dental unit," and "university system" have the meanings assigned by Section 61.003.
(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997.)

Sec. 51.802. Uniform Admission System.

A general academic teaching institution shall admit first-time freshman students for each semester under the provisions of this subchapter.
(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997.)

Sec. 51.803. Automatic Admission: All Institutions.

(a) Subject to Subsection (a-1), each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and:

(1) the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense;

(2) the applicant:

(A) successfully completed:

(i) at a public high school, the curriculum requirements established under Section 28.025 for the distinguished level of achievement under the foundation high school program; or

(ii) at a high school to which Section 28.025 does not apply, a curriculum that is equivalent in content and rigor to the distinguished level of achievement under the foundation high school program; or

(B) satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent; and

(3) if the applicant graduated from a high school operated by the United States Department of Defense, the applicant is a Texas resident under Section 54.052 or is entitled to pay tuition fees at the rate provided for Texas residents under Section 54.241(d) for the term or semester to which admitted.

(a-1) Beginning with admissions for the 2011-2012 academic year, The University of Texas at Austin is not required to offer admission to applicants who qualify for automatic admission under Subsection (a) in excess of the number required to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year. If the number of applicants who qualify for automatic admission to The University of Texas at Austin under Subsection (a) for an academic year exceeds 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students for that academic year, the university may elect to offer admission to those applicants as provided by this subsection and not as otherwise required by Subsection (a). If the university elects to offer admission under this subsection, the university shall offer admission to those applicants by percentile rank according to high school graduating class standing based on grade point average, beginning with the

top percentile rank, until the applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the university as sufficient to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students, except that the university must offer admission to all applicants with the same percentile rank. After the applicants qualified for automatic admission under Subsection (a) have been offered admission under this subsection in the number estimated in good faith as sufficient to fill 75 percent of the designated enrollment capacity described by this subsection, the university shall consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805.

(a-2) If the number of applicants who apply to a general academic teaching institution during the current academic year for admission in the next academic year and who qualify for automatic admission to a general academic teaching institution under Subsection (a) exceeds 75 percent of the institution's enrollment capacity designated for first-time resident undergraduate students for that next academic year and the institution plans to offer admission under Subsection (a-1) during the next school year, the institution shall, in the manner prescribed by the Texas Education Agency and not later than September 15, provide to each school district, for dissemination of the information to high school junior-level students and their parents, notice of which percentile ranks of high school senior-level students who qualify for automatic admission under Subsection (a) are anticipated by the institution to be offered admission under Subsection (a-1) during the next school year.

(a-3) Notwithstanding Subsection (a-1), The University of Texas at Austin may not offer admission under that subsection for an academic year after the 2017-2018 academic year.

(a-4) If The University of Texas at Austin elects to offer admission to first-time resident undergraduate students under Subsection (a-1) for an academic year, the university must continue its practice of not considering an applicant's legacy status as a factor in the university's decisions relating to admissions for that academic year.

(a-5) A general academic teaching institution that offers admission to first-time resident undergraduate students under Subsection (a-1) shall require that a student admitted under that subsection complete a designated portion of not less than six semester credit hours of the student's coursework during evening hours or other low-demand hours as necessary to ensure the efficient use of the institution's available classrooms.

(a-6) Not later than December 31 of each academic year in which The University of Texas at Austin offers admission under Subsection (a-1), the university shall deliver a written report to the governor, the lieutenant governor, and speaker of the house of representatives regarding the university's progress in each of the following matters:

(1) increasing geographic diversity of the entering freshman class;

(2) counseling and outreach efforts aimed at students qualified for automatic admission under this section;

(3) recruiting Texas residents who graduate from other institutions of higher education to the university's graduate and professional degree programs;

(4) recruiting students who are members of underrepresented demographic segments of the state's population; and

(5) assessing and improving the university's regional recruitment centers.

(b) An applicant who does not satisfy the curriculum requirements prescribed by Subsection (a)(2)(A)(i) or (ii) is considered to have satisfied those requirements if the student completed the portion of the distinguished level of achievement under the foundation high school program curriculum or of the curriculum equivalent in content and rigor, as applicable, that was available to the student but was unable to complete the remainder of the curriculum solely because courses necessary to complete the remainder were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control.

(c) To qualify for admission under this section, an applicant must:

(1) submit an application before the expiration of any application filing deadline established by the institution; and

(2) provide a high school transcript or diploma that satisfies the requirements of Subsection (d).

(d) For purposes of Subsection (c)(2), a student's official transcript or diploma must, not later than the end of the student's junior year, indicate:

(1) whether the student has satisfied or is on schedule to satisfy the requirements of Subsection (a)(2)(A)(i) or (ii), as applicable; or

(2) if Subsection (b) applies to the student, whether the student has completed the portion of the distinguished level of achievement under the foundation high school program curriculum or of

the curriculum equivalent in content and rigor, as applicable, that was available to the student.

(e) Each institution of higher education shall admit an applicant for admission to the institution as an undergraduate student if the applicant:

(1) is the child of a public servant listed in Section 615.003, Government Code, who was killed or sustained a fatal injury in the line of duty; and

(2) meets the minimum requirements, if any, established for purposes of this subsection by the governing board of the institution for high school or prior college-level grade point average and performance on standardized tests.

(f) After admitting an applicant under this section, the institution shall review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work or would benefit from inclusion in a retention program. The institution may require a student so identified to enroll during the summer immediately after the student is admitted under this section to participate in appropriate enrichment courses and orientation programs. This section does not prohibit a student who is not determined to need additional preparation for college-level work from enrolling, if the student chooses, during the summer immediately after the student is admitted under this section.

(g) The Texas Higher Education Coordinating Board by rule shall develop and implement a program to increase and enhance the efforts of general academic teaching institutions in conducting outreach to academically high-performing high school seniors in this state who are likely to be eligible for automatic admission under Subsection (a) to provide to those students information and counseling regarding the operation of this section and other opportunities, including financial assistance, available to those students for success at public institutions of higher education in this state. Under the program, the coordinating board, after gathering information and recommendations from available sources and examining current outreach practices by institutions in this state and in other states, shall prescribe best practices guidelines and standards to be used by general academic teaching institutions in conducting the student outreach described by this subsection.

(h) An institution that admits under this section an applicant qualified for automatic admission under Subsection (a) may admit the applicant for either the fall semester of the academic year for which the applicant applies or for the summer session preceding that fall semester, as determined by the institution.

(i) If a general academic teaching institution denies admission to an applicant for an academic year, in any letter or other communication the institution provides to the applicant notifying the applicant of that denial, the institution may not reference the provisions of this section, including using a description of a provision of this section such as the top 10 percent automatic admissions law, as a reason the institution is unable to offer admission to the applicant unless the number of applicants for admission to the institution for that academic year who qualify for automatic admission under Subsection (a) is sufficient to fill 100 percent of the institution's enrollment capacity designated for first-time resident undergraduate students.

(j) A general academic teaching institution that elects to offer admission under Subsection (a-1) for an academic year may not offer admission to first-time undergraduate students who are not residents of this state for that academic year in excess of the number required to fill 10 percent of the institution's enrollment capacity designated for first-time undergraduate students for that academic year.

(k) A general academic teaching institution may not offer admission under Subsection (a-1) for an academic year after the 2017-2018 academic year if, on the date of the institution's general deadline for applications for admission of first-time undergraduate students for that academic year:

(1) a final court order applicable to the institution prohibits the institution from considering an applicant's race or ethnicity as a factor in the institution's decisions relating to first-time undergraduate admissions; or

(2) the institution's governing board by rule, policy, or other manner has provided that an applicant's race or ethnicity may not be considered as a factor in the institution's decisions relating to first-time undergraduate admissions for that academic year.

(*l*) The Texas Higher Education Coordinating Board shall publish an annual report on the impact of Subsection (a-1) on the state's goal of closing college access and achievement gaps under "Closing the Gaps," the state's master plan for higher education, with respect to students of an institution that offers admission under that subsection, disaggregated by race, ethnicity, socioeconomic status, and geographic region and by whether the high school from which the student graduated was a small school, as defined by the commissioner of education, or a public high school that is ranked among the lowest 20 percent of public high schools according to the percentage of each high school's graduates who

enroll in a four-year institution, including a general academic teaching institution, in one of the two academic years following the year of the applicant's high school graduation. On request, a general academic teaching institution that offers admission under Subsection (a-1) shall provide the board with any information the board considers necessary for the completion of the report required by this subsection.

(m) **[Expires September 1, 2020]** The Texas Higher Education Coordinating Board and the commissioner of education shall jointly adopt rules to establish eligibility requirements for admission under this section as to curriculum requirements for high school graduation under Subsection (a)(2)(A) for students participating under the recommended or advanced high school program so that the admission of those students is not affected by their participation in the recommended or advanced high school program. This subsection expires September 1, 2020.

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 845 (H.B. 1804), § 1, effective August 30, 1999; am. Acts 2007, 80th Leg., ch. 941 (H.B. 3826), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1342 (S.B. 175), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.008, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 64(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 959 (H.B. 1843), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 64(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 51.8035. Automatic Admission of Applicants Completing Core Curriculum at Another Institution.

(a) In this section:

(1) "Core curriculum" means the core curriculum adopted by an institution of higher education under Section 61.822.

(2) "General academic teaching institution" has the meaning assigned by Section 61.003.

(b) A general academic teaching institution shall admit an applicant for admission to the institution as a transfer undergraduate student who:

(1) graduated from high school not earlier than the fourth school year before the academic year for which the applicant seeks admission to the institution as a transfer student and:

(A) qualified for automatic admission to a general academic teaching institution under Section 51.803 at the time of graduation; or

(B) was previously offered admission under this subchapter to the institution to which the applicant seeks admission as a transfer student;

(2) first enrolled in a public junior college or other public or private lower-division institution of higher education not earlier than the third academic year before the academic year for which the applicant seeks admission;

(3) completed the core curriculum at a public junior college or other public or private lower-division institution of higher education with a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent; and

(4) submits a completed application for admission as a transfer student before the expiration of any application filing deadline established by the institution.

(c) For purposes of this section, transfer semester credit hours from a different institution of higher education and semester credit hours earned by examination shall be included in determining whether the person completed the core curriculum at an institution of higher education.

(d) It is the responsibility of the applicant for admission under this section to:

(1) expressly and clearly claim in the application entitlement to admission under this section; and

(2) timely provide to the general academic teaching institution the documentation required by the institution to determine the student's entitlement to admission under this section.

(Enacted by Acts 2009, 81st Leg., ch. 1342 (S.B. 175), § 2, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1342 (S.B. 175), § 10 provides: "Section 51.8035, Education Code, as added by this Act, applies beginning with admissions to a general academic teaching institution for the 2010 spring semester."

Sec. 51.804. Additional Automatic Admissions: Selected Institutions.

For each academic year, the governing board of each general academic teaching institution shall determine whether to adopt an admissions policy under which an applicant to the institution as a first-time freshman student, other than an applicant eligible for admission under Section 51.803, shall be admitted to the institution if the applicant:

(1) graduated from a public or private high school in this state accredited by a generally recognized accrediting organization with a grade point average in the top 25 percent of the applicant's high school graduating class; and

(2) satisfies the requirements of:

(A) Section 51.803(a)(2)(A) or 51.803(b), as applicable to the student, or Section 51.803(a)(2)(B); and

(B) Sections 51.803(c)(2) and 51.803(d).

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 941 (H.B. 3826), § 2, effective June 15, 2007.)

Sec. 51.8045. Graduates of Certain Special High School Programs.

(a) For purposes of Sections 51.803 and 51.804 only, the governing body of a school district may treat a high school magnet program, academy, or other special program conducted by the school district at a high school attended by high school students who are not students of the special program as an independent high school with its own graduating class separate from the graduating class of other students attending the high school if:

(1) the special program was in operation in the 2000-2001 school year;

(2) the students of the special program are recruited, selected, or admitted from among the students residing in the attendance zones of not fewer than 10 regular high schools in the district, including the high school at which the special program is conducted;

(3) the students of the special program are selected or admitted independently of and identified as a student body separate from the other students of the high school;

(4) the students of the special program constitute not less than 35 percent of the total number of students in the graduating class at the high school at which the special program is conducted;

(5) the students of the special program have a curriculum different from that of the other students of the high school, even if students of the special program and other students of the high school attend some of the same classes; and

(6) a student graduating from the special program receives a high school diploma that includes a reference to the special program in describing the high school from which the student graduated.

(b) This section does not apply to the manner in which the members of a graduating class of the high school as a whole, including graduates of the special program, are ranked by grade point average for purposes other than admissions under Sections 51.803 and 51.804.

(Enacted by Acts 2001, 77th Leg., ch. 1024 (H.B. 1387), § 1, effective June 15, 2001.)

Sec. 51.805. Other Admissions.

(a) A graduating student who does not qualify for admission under Section 51.803 or 51.804 may apply to any general academic teaching institution if the student:

(1) successfully completed:

(A) at a public high school, the curriculum requirements established under Section 28.025 for the foundation high school program; or

(B) at a high school to which Section 28.025 does not apply, a curriculum that is equivalent in content and rigor to the foundation high school program; or

(2) satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent.

(b) The general academic teaching institution, after admitting students under Sections 51.803 and 51.804, shall admit other applicants for admission as undergraduate students. It is the intent of the legislature that all institutions of higher education pursue academic excellence by considering students' academic achievements in decisions related to admissions. Because of changing demographic trends, diversity, and population increases in the state, each general academic teaching institution shall also consider all of, any of, or a combination of the following socioeconomic indicators or factors in making first-time freshman admissions decisions:

(1) the applicant's academic record;

(2) the socioeconomic background of the applicant, including the percentage by which the applicant's family is above or below any recognized measure of poverty, the applicant's household income, and the applicant's parents' level of education;

(3) whether the applicant would be the first generation of the applicant's family to attend or graduate from an institution of higher education;

(4) whether the applicant has bilingual proficiency;

(5) the financial status of the applicant's school district;

(6) the performance level of the applicant's school as determined by the school accountability criteria used by the Texas Education Agency;

(7) the applicant's responsibilities while attending school, including whether the applicant has been employed, whether the applicant has helped to raise children, or other similar factors;

(8) the applicant's region of residence;

(9) whether the applicant is a resident of a rural or urban area or a resident of a central city or suburban area in the state;

(10) the applicant's performance on standardized tests;

(11) the applicant's performance on standardized tests in comparison with that of other students from similar socioeconomic backgrounds;

(12) whether the applicant attended any school while the school was under a court-ordered desegregation plan;

(13) the applicant's involvement in community activities;

(14) the applicant's extracurricular activities;

(15) the applicant's commitment to a particular field of study;

(16) the applicant's personal interview;

(17) the applicant's admission to a comparable accredited out-of-state institution; and

(18) any other consideration the institution considers necessary to accomplish the institution's stated mission.

(c) A general academic teaching institution may review other factors in making an admissions decision.

(d) Not later than one year before the date that applications for admission are first considered under this section, each general academic teaching institution shall publish in the institution's catalog a description of the factors considered by the institution in making admission decisions and shall make the information available to the public.

(e) This section does not apply to an institution that has an open enrollment policy, except that a student may apply to a general academic teaching institution that has an open enrollment policy only if the student satisfies the requirements described by Subsection (a).

(f) This section does not apply to Lamar State College—Orange or Lamar State College—Port Arthur as long as those institutions operate as two-year lower-division institutions of higher education.

(g) **[Expires September 1, 2020]** The Texas Higher Education Coordinating Board and the commissioner of education shall jointly adopt rules to establish eligibility requirements for admission under this section as to curriculum requirements for high school graduation under Subsection (a)(1) for students participating in the minimum, recommended, or advanced high school program so that the admission requirements for those students under this section are not more stringent than the admission requirements under this section for students participating in the foundation high school program. This subsection expires September 1, 2020.

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 941 (H.B. 3826), § 3, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 449 (H.B. 2424), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 65(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 65(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 51.806. Report to Coordinating Board [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 694 (S.B. 302), § 4, effective June 17, 2005.

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997.)

Sec. 51.807. Rulemaking.

(a) The Texas Higher Education Coordinating Board may adopt rules relating to the operation of admissions programs under this subchapter, including rules relating to the identification of eligible students.

(b) The Texas Higher Education Coordinating Board, after consulting with the Texas Education Agency, by rule shall establish standards for determining for purposes of this subchapter:

(1) whether a private high school is accredited by a generally recognized accrediting organization; and

(2) whether a person completed a high school curriculum that is equivalent in content and rigor to the curriculum requirements established under Section 28.025 for the foundation high school program or the distinguished level of achievement under the foundation high school program.

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 941 (H.B. 3826), § 4, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1369 (H.B. 3851), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 895 (H.B. 3), § 62, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 66(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 66(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 51.808. Application of Admission Criteria to Other Programs.

(a) Each general academic teaching institution or medical and dental unit that offers admissions to undergraduate transfer students or admissions to a graduate, postgraduate, or professional program shall adopt a written admission policy applicable to those programs.

(b) Each general academic teaching institution shall adopt a written admission policy to promote the admission of undergraduate transfer students to the institution. The policy must provide for outreach

and recruiting efforts directed at junior colleges and other lower-division institutions of higher education and may include incentives to encourage transfer applications and to retain and promote transfer students.

(c) A policy adopted under this section shall be published in the institution's or unit's catalog and made available to the public.

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 1369 (H.B. 3851), § 4, effective June 15, 2007.)

Sec. 51.809. Scholarship and Fellowship Awards.

(a) A general academic teaching institution or a medical and dental unit that offers competitive scholarship or fellowship awards shall adopt a written policy describing the factors to be used by the institution or unit in making an award.

(b) A policy adopted under this section shall be published in the institution's or unit's catalog and shall be made available to the public in advance of any deadline for the submission of an application for a competitive scholarship or fellowship to which the policy applies.

(Enacted by Acts 1997, 75th Leg., ch. 155 (H.B. 588), § 1, effective September 1, 1997.)

Sec. 51.810. Higher Education Assistance Plans.

(a) In this section:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(b) The institution of higher education in closest geographic proximity to a public high school in this state identified by the coordinating board for purposes of this section as substantially below the state average in the number of graduates who enroll in higher education institutions shall enter into an agreement with that high school to develop a plan to increase the number of students from that high school enrolling in higher education institutions. Under the plan, the institution shall:

(1) collaborate with the high school to:

(A) provide to prospective students information related to enrollment in an institution of higher education or a private or independent institution of higher education, including admissions, testing, and financial aid information;

(B) assist those prospective students in completing applications and testing related to enrollment in those institutions, including admissions and financial aid applications, and fulfilling testing requirements; and

(C) target efforts to increase the number of Hispanic students and African American male students enrolled in higher education institutions; and

(2) actively engage with local school districts to provide access to rigorous, high-quality dual credit opportunities for qualified high school students as needed.

(c) An institution of higher education must include a plan developed by the institution under this section and the results of that plan in its annual report to the coordinating board under Section 51.4032.

(d) The coordinating board shall include in its annual "Closing the Gaps" higher education plan progress report a summary of the results of the plans developed and administered under this section.

(e) The coordinating board may adopt rules to implement this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1015 (H.B. 2550), § 1, effective September 1, 2013.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 51.9241. Admission of Student with Nontraditional Secondary Education.

(a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Nontraditional secondary education" means a course of study at the secondary school level in a nonaccredited private school setting, including a home school.

(b) Because the State of Texas considers successful completion of a nontraditional secondary education to be equivalent to graduation from a public high school, an institution of higher education must treat an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education according to the same general standards as other applicants for undergraduate admission who have graduated from a public high school.

(c) An institution of higher education may not require an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education to:

(1) obtain or submit evidence that the person has obtained a general education development

certificate, certificate of high school equivalency, or other credentials equivalent to a public high school degree; or

(2) take an examination or comply with any other application or admission requirement not generally applicable to other applicants for undergraduate admission to the institution.

(Enacted by Acts 2003, 78th Leg., ch. 232 (H.B. 944), § 1, effective September 1, 2003.)

CHAPTER 53
HIGHER EDUCATION FACILITY AUTHORITIES FOR PUBLIC SCHOOLS

Subchapter C. Powers and Duties

SUBCHAPTER C
POWERS AND DUTIES

Sec. 53.351. Bonds for Open-Enrollment Charter School Facilities.

(a) The Texas Public Finance Authority shall establish a nonprofit corporation to act on behalf of the state, as its duly constituted authority and instrumentality, to issue revenue bonds for authorized open-enrollment charter schools for the acquisition, construction, repair, or renovation of educational facilities of those schools.

(b) The Texas Public Finance Authority shall appoint the directors of the corporation in consultation with the commissioner of education. Directors serve without compensation but are entitled to reimbursement for travel expenses incurred in attending board meetings. The board shall meet at least once a year.

(c) The corporation has all powers granted under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), or granted to a nonprofit corporation under the Business Organizations Code, for the purpose of aiding authorized open-enrollment charter schools in providing educational facilities. In addition, Sections 53.131, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.38, 53.40, and 53.41 apply to and govern the corporation and its procedures and bonds. The corporation may exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and the execution of credit agreements under Chapter 1371, Government Code.

(d) The corporation shall adopt rules governing the issuance of bonds under this section.

(e) The comptroller shall establish a fund dedicated to the credit enhancement of bonds issued by any issuer under this subchapter for any open-enrollment charter school. The fund may receive donations. The corporation may also use the money held under this subsection to provide loans or other credit support for the obligations of any open-enrollment charter school issued by any issuer in any manner not inconsistent with the Texas Non-Profit Corporation Act (Article 1396-1.01, Vernon's Texas Civil Statutes), or the provisions of the Business Organizations Code governing nonprofit corporations. The obligation of the fund is limited to an amount equal to the balance of the fund.

(f) Except as provided by Subsection (f-1), a revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized open-enrollment charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

(f-1) Subsection (f) does not apply to a revenue bond issued under this section for a charter district if the bond is approved for guarantee by the permanent school fund under Subchapter C, Chapter 45.

(g) An educational facility financed in whole or in part under this section is exempt from taxation if the facility:

(1) is owned by an authorized open-enrollment charter school;

(2) is held for the exclusive benefit of the school; and

(3) is held for the exclusive use of the students, faculty, and staff members of the school.

(Enacted by Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 32, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 641 (H.B. 2701), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1357 (H.B. 1400), § 1, effective June 15, 2007; am. Acts 2011,

82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 59.20, effective September 28, 2011.)

Sec. 53.48. Bonds for Authorized Charter Schools.

In the same manner that a corporation may issue and execute bonds or other obligations under this chapter for an institution of higher education, a corporation created under Section 53.35(b) may issue and execute bonds or other obligations to finance or refinance educational facilities to be used by an authorized charter school.

(Enacted by Acts 1995, 74th Leg., ch. 18 (H.B. 666), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 1232 (H.B. 1043), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 5, effective June 19, 1999; am. Acts 2003, 78th Leg., ch. 1266 (S.B. 1652), art. 1, § 1.09, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 11, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 641 (H.B. 2701), § 1, effective September 1, 2005.)

CHAPTER 54
TUITION AND FEES

Subchapter D. Exemptions from Tuition

SUBCHAPTER D
EXEMPTIONS FROM TUITION

Sec. 54.201. Highest Ranking High School Graduates [Renumbered].

Renumbered to Tex. Education Code § 54.301 by Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012.

Sec. 54.212. Teaching or Research Assistant.

A teaching assistant or research assistant of any institution of higher education and the spouse and children of such a teaching assistant or research assistant are entitled to register in a state institution of higher education by paying the tuition fees and other fees or charges required for Texas residents under Section 54.051 of this code, without regard to the length of time the assistant has resided in Texas, if the assistant is employed at least one-half time in a teaching or research assistant position which relates to the assistant's degree program under rules and regulations established by the employer institution.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971; am. Acts 1985, 69th Leg., ch. 708 (H.B. 1147), § 8, effective August 26, 1985 (renumbered from Sec. 54.051(o)); am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012 (renumbered from Sec. 54.063).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Sec. 54.215. Participants in Military Funerals [Renumbered].

Renumbered to Tex. Education Code § 54.344 by Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012.

Sec. 54.216. Students Enrolled in Course for Concurrent High School and College-Level Credit; Optional Waiver.

The governing board of an institution of higher education may waive all or part of the tuition and fees charged by the institution for a student enrolled in a course for which the student is entitled to simultaneously receive both:

(1) course credit toward the student's high school academic requirements; and

(2) course credit toward a degree offered by the institution.

(Enacted by Acts 2003, 78th Leg., ch. 812 (S.B. 258), § 1, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately

before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Sec. 54.301. Highest Ranking High School Graduates.

The governing board of each institution of higher education may issue scholarships each year to the highest ranking graduate of each accredited high school of this state, exempting the graduates from the payment of tuition during both semesters of the first regular session immediately following their graduation. This exemption may be granted for any one of the first four regular sessions following the individual's graduation from high school when in the opinion of the institution's president the circumstances of an individual case, including military service, merit the action.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971; am. Acts 2012, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012 (renumbered from Sec. 54.201).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Sec. 54.344. Participants in Military Funerals.

The governing board of each institution of higher education shall provide a $25 exemption from tuition and required fees under this chapter to a student in exchange for a voucher issued to the student under Section 434.0072, Government Code, that is presented by the student to the institution.

(Enacted by Acts 2007, 80th Leg., ch. 660 (H.B. 1187), § 3, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012 (renumbered from Sec. 54.215).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Sec. 54.361. One-Year Exemption for Certain TANF Students.

A student is exempt from the payment of tuition and fees authorized by this chapter for the first academic year in which the student enrolls at an institution of higher education if the student:

(1) graduated from a public high school in this state;

(2) successfully completed the attendance requirements under Section 25.085;

(3) during the student's last year of public high school in this state, was a dependent child receiving financial assistance under Chapter 31, Human Resources Code, for not less than six months;

(4) is younger than 22 years of age on the date of enrollment;

(5) enrolls at the institution as an undergraduate student not later than the second anniversary of the date of graduation from a public high school in this state;

(6) has met the entrance examination requirements of the institution before the date of enrollment; and

(7) is classified as a resident under Subchapter B.

(Enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 1, effective August 28, 1995; am. Acts 2001, 77th Leg., ch. 1094 (H.B. 2279), § 1, effective June 15, 2001; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012 (renumbered from Sec. 54.212).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Sec. 54.362. Funding of Exemptions.

(a) An institution of higher education may fund tuition exemptions under Section 54.361 or 54.363 from local funds or from funds appropriated to the institution. An institution of higher education is not required to provide tuition exemptions beyond those funded through appropriations specifically designated for this purpose.

(b) **[2 Versions: As amended by Acts 2011, 82nd Leg., ch. 359]** Savings to the foundation school fund that occur as a result of the Early High School Graduation Scholarship program created in Subchapter K, Chapter 56, and that are not required for the funding of state credits for tuition and mandatory fees under Section 56.204 or school district credits under Section 56.2075 shall be used first to provide tuition exemptions under Section 54.361. Any of those savings remaining after providing tuition exemptions under Section 54.361 shall be used to provide tuition exemptions under Section 54.363. The Texas Education Agency shall also accept and make available to provide tuition exemptions under Section 54.363 gifts, grants, and dona-

tions made to the agency for that purpose. Payment of funds under this subsection shall be made in the manner provided by Section 56.207 for state credits under Subchapter K, Chapter 56.

(b) **[2 Versions: As amended by Acts 2011, 82nd Leg., ch. 1186]** The Texas Education Agency shall accept and make available to provide tuition exemptions under Section 54.214 gifts, grants, and donations made to the agency for that purpose. The commissioner of education shall transfer those funds to the Texas Higher Education Coordinating Board to distribute to institutions of higher education that provide exemptions under that section.

(Enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 524 (H.B. 571), § 2, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 9, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012 (renumbered from Sec. 54.213); am. Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 2, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 18 provides: "The changes in law made by this Act apply beginning with tuition and other fees charged for the 2012-2013 academic year. Tuition and other fees charged for an academic period before that academic year are covered by the law in effect immediately before the effective date of this Act [January 1, 2012], and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act [June 17, 2011]."

Sec. 54.363. Educational Aides.

(a) In this section, "coordinating board" means the Texas Higher Education Coordinating Board.

(b) The governing board of an institution of higher education shall exempt an eligible educational aide from the payment of tuition and fees, other than class or laboratory fees.

(c) To be eligible for an exemption under this section, a person must:

(1) be a resident of this state;

(2) be a school employee serving in any capacity;

(3) for the initial term or semester for which the person receives an exemption under this section, have worked as an educational aide for at least one school year during the five years preceding that term or semester;

(4) establish financial need as determined by coordinating board rule;

(5) be enrolled at the institution of higher education granting the exemption in courses required for teacher certification in one or more subject areas determined by the Texas Education Agency to be experiencing a critical shortage of teachers at the public schools in this state;

(6) maintain an acceptable grade point average as determined by coordinating board rule; and

(7) comply with any other requirements adopted by the coordinating board under this section.

(c-1) Notwithstanding Subsection (c)(5), a person who previously received a tuition exemption under this section remains eligible for an exemption if the person:

(1) is enrolled at an institution of higher education granting the exemption in courses required for teacher certification; and

(2) meets the eligibility requirements in Subsection (c), other than Subsection (c)(5).

(d) The institution of higher education at which a person seeking an exemption under this section is enrolled must certify the person's eligibility to receive the exemption. As soon as practicable after receiving an application for certification, the institution shall make the determination of eligibility and give notice of its determination to the applicant and to the school district employing the applicant as an educational aide.

(e) The coordinating board shall adopt rules consistent with this section as necessary to implement this section. The coordinating board shall distribute a copy of the rules adopted under this section to each school district and institution of higher education in this state.

(f) The board of trustees of a school district shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers.

(g) The governing board of an institution of higher education that offers courses required for teacher certification shall establish a plan to make those courses more accessible to those who seek teacher certification. The board shall consider as part of its plan to make those courses more accessible for teacher certification, evening classes, Internet classes, or other means approved by the Texas Higher Education Coordinating Board.

(Enacted by Acts 1997, 75th Leg., ch. 524 (H.B. 571), § 3, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 74 (H.B. 1130), § 1, effective May 14, 2001; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 13, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 830 (S.B. 1798), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1299 (H.B. 2347), § 2, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 1, effective January 1, 2012 (renumbered from Sec. 54.214); am. Acts 2011, 82nd

Leg., 1st C.S., ch. 4 (S.B. 1), § 50.01, effective September 28, 2011.)

CHAPTER 55
FINANCING PERMANENT IMPROVEMENTS

Subchapter B. Revenue Bonds and Facilities

SUBCHAPTER B
REVENUE BONDS AND FACILITIES

Sec. 55.12. Contracts for Joint Construction.

Each board may enter into contracts with municipalities or school districts for the joint construction of museums, libraries, or other buildings.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

CHAPTER 56
STUDENT FINANCIAL ASSISTANCE

Subchapter K. Early High School Graduation Scholarship Program

Subchapter M. Toward Excellence, Access, & Success (Texas) Grant Program

Subchapter O. Teach for Texas Loan Repayment Assistance Program

SUBCHAPTER K
EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM

Sec. 56.201. Program Name.

The student financial assistance program authorized by this subchapter is known as the Early High School Graduation Scholarship program.
(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995.)

Sec. 56.2011. Definition.

In this subchapter, "coordinating board" means the Texas Higher Education Coordinating Board.
(Am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 20, effective September 1, 2005; enacted by Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 1, effective June 18, 2005.)

Sec. 56.202. Purpose.

(a) The Early High School Graduation Scholarship program is created to increase efficiency in the Foundation School Program and to provide assistance for tuition or tuition and mandatory fees, as provided by Section 56.204, to an eligible person to

enable that person to attend a public or private institution of higher education in this state.

(b) [Repealed by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 11, effective June 17, 2011.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 21, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 2, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 11, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act."

Sec. 56.203. Eligible Person.

(a) To be eligible for an award through the Early High School Graduation Scholarship program, a person must:

(1) have graduated from a public high school in this state:

(A) in not more than 41 consecutive months and successfully completed the recommended or advanced high school program established under Section 28.025, if the person graduated on or after September 1, 2005;

(B) in not more than 46 consecutive months, with at least 30 hours of college credit, and successfully completed the recommended or advanced high school program established under Section 28.025, if the person graduated on or after September 1, 2005; or

(C) in not more than 36 consecutive months after successfully completing the requirements for a high school diploma, if the person graduated before September 1, 2005, regardless of whether the person successfully completed the recommended or advanced high school program established under Section 28.025;

(2) have attended one or more public high schools in this state for the majority of time the person attended high school; and

(3) be a citizen of the United States or otherwise lawfully authorized to be present in the United States.

(b) The eligibility for the Early High School Graduation Scholarship program of a person described by Subsection (a)(1)(A) or (B) ends on the sixth anniversary of the date that the person first becomes eligible to participate in the program, unless the person is provided additional time to participate in the program under Subsection (c).

(c) The coordinating board shall adopt rules to provide a person described by Subsection (a)(1)(A) or (B) who is otherwise eligible to participate in the Early High School Graduation Scholarship program additional time to use a state credit for tuition and mandatory fees under the program. The rules must require a person seeking an extension under this subsection to show hardship or other good cause that prevents the person from enrolling in or continuing enrollment in an eligible institution during the period provided by Subsection (b). For purposes of this subsection, hardship or other good cause includes a severe illness or other debilitating condition, responsibility for the care of a sick, injured, or needy person, or active duty or other service in the United States armed forces.

(d) A person who does not satisfy the curriculum requirements for the recommended or advanced high school program as required to establish eligibility under Subsection (a)(1)(A) or (B) is considered to have satisfied those requirements if the high school from which the person graduated indicates on the person's transcript that the person was unable to complete the appropriate curriculum within the time prescribed by that subsection solely because of a reason beyond the person's control, such as lack of enrollment capacity or a shortage of qualified teachers.

(e) The coordinating board shall adopt rules for determining whether a person attended public high school in this state as required by Subsection (a)(2).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 365 (S.B. 1366), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 22, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 3, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1225 (H.B. 2383), § 2, effective June 15, 2007.)

Sec. 56.204. Entitlement.

(a) In a total amount not to exceed the amount of funds appropriated for the current state fiscal year to pay for a state credit to apply toward tuition or tuition and mandatory fees, as applicable, at a public or private institution of higher education in this state, the commissioner of education shall award to eligible persons credits in the following amounts:

(1) $2,000 to apply toward tuition and mandatory fees if the person successfully completed the

recommended or advanced high school program established under Section 28.025 and graduated from high school on or after September 1, 2005, in 36 consecutive months or less and an additional $1,000 to apply toward tuition and mandatory fees if the person graduated with at least 15 hours of college credit;

(2) $500 to apply toward tuition and mandatory fees if the person successfully completed the recommended or advanced high school program established under Section 28.025 and graduated from high school on or after September 1, 2005, in more than 36 consecutive months but not more than 41 consecutive months and an additional $1,000 to apply toward tuition and mandatory fees if the person graduated with at least 30 hours of college credit;

(3) $1,000 to apply toward tuition and mandatory fees if the person successfully completed the recommended or advanced high school program established under Section 28.025 and graduated from high school on or after September 1, 2005, in more than 41 consecutive months but not more than 45 consecutive months with at least 30 hours of college credit; or

(4) $1,000 to apply only toward tuition if the person graduated before September 1, 2005, after successfully completing the requirements for a high school diploma in not more than 36 consecutive months.

(b) The use of a credit at a private institution is contingent on a private institution's agreement to match the state credit.

(c) [Expired pursuant to Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 3, effective September 1, 2005.]

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 23, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 24, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 4, effective June 18, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 5, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 5, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act."

Sec. 56.205. Issuance of Certificate.

As soon as practicable after the coordinating board confirms with the high school from which a person graduated that the person is eligible for an award through the Early High School Graduation Scholarship program, the coordinating board shall provide a certificate for state credits for tuition or tuition and mandatory fees, as applicable, to the eligible person.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 4, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 25, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 6, effective June 18, 2005.)

Sec. 56.206. Use of State Credit.

(a) On enrollment of an eligible person in an eligible institution of higher education, the institution shall apply to the person's charges for tuition or tuition and mandatory fees, as applicable, for the enrollment period an amount equal to the lesser of:

(1) the amount of the state credit available to the person; or

(2) the person's actual tuition or tuition and mandatory fees, as applicable.

(b) A private institution of higher education shall apply the state credit and the matching credit required by Section 56.204(b) in equal amounts.

(c) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(16), effective June 17, 2011.]

(d) Subject to Section 56.203(b), an eligible person may use the state credit for enrollment in an eligible institution of higher education during any semester or summer session, except the initial use of the credit by a person who qualifies for an award under Section 56.203(a)(1)(A) or (B) may not be for enrollment during any term of a summer session immediately following the person's graduation from high school.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 5, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 26, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 7, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(16), effective June 17, 2011.)

Sec. 56.207. Payment of State Credit.

(a) At least once each year the coordinating board shall submit a report to the commissioner of education that includes:

(1) the name of each student who used the state credit under this subchapter during the period covered by the report;

(2) the school district from which each student graduated from high school; and

(3) the amount of the state credit used by each student during the period covered by the report.

(b) On receipt of a report from the coordinating board under Subsection (a), the commissioner of education shall transfer to the coordinating board, from funds appropriated for the purpose of the Early High School Graduation Scholarship program, an amount commensurate with the amount of funds appropriated to pay each eligible institution of higher education the amount of state credit for tuition or tuition and mandatory fees, as applicable, that is applied by the institution during the period covered by the report.

(c) The coordinating board shall distribute the appropriate amount of funds to each eligible institution when the board receives the funds under Subsection (b).

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 205 (H.B. 3356), § 1, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), §§ 6, 7, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 27, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 8, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 6, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act."

Sec. 56.2075. Payment of School District Credit.

(a) A school district is entitled to a one-time credit of:

(1) $1,000 for each eligible person graduating from high school in the district who uses any part of a state credit of $2,000 or more under Section 56.204(a)(1); and

(2) $250 for each eligible person graduating from high school in the district who uses any part of a state credit of $500 or more under Section 56.204(a)(2).

(b) The commissioner of education shall distribute money from the foundation school fund in an amount sufficient to pay each school district under Subsection (a).

(Am. Acts 2003, 78th Leg., ch. 1317 (H.B. 1882), § 8, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 28, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1266 (H.B. 2109), § 9, effective June 18, 2005.)

Sec. 56.208. Funding [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 11, effective June 17, 2011.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 30, effective September 1, 1997; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), art. 1, § 1.13, effective May 31, 2006.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1186 (H.B. 3708), § 13 provides: "The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act."

Sec. 56.209. Adoption and Distribution of Rules.

(a) The coordinating board shall adopt rules to administer this subchapter.

(b) The coordinating board shall distribute copies of all rules adopted under this subchapter to each eligible institution of higher education and to each school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 19, effective May 30, 1995; enacted by Acts 1995, 74th Leg., ch. 620 (H.B. 1479), § 2, effective August 28, 1995.)

Sec. 56.210. Notification by High Schools Regarding Program Requirements.

(a) When the student initially enrolls in the school, each public high school in this state shall provide information regarding the requirements of the Early High School Graduation Scholarship program:

(1) to each freshman student enrolled when the school year begins and to a parent, conservator, or guardian of the student; and

(2) to each student who:

(A) enrolls in the school before the student's senior year; and

(B) did not receive the information under Subdivision (1).

(b) The information provided under Subsection (a) must include:

(1) the number and type of high school course credits necessary to satisfy the eligibility require-

ments for the Early High School Graduation Scholarship program; and

(2) the appropriate order in which those high school course credits must be earned to satisfy the eligibility requirements, including course credits related to the curriculum for the recommended or advanced high school program.

(c) The Texas Education Agency shall prepare a publication that includes the information required to be provided under this section and shall post that publication on the agency's website in a form that enables a public high school to reproduce the information for distribution to students, parents, and other persons as required by this section.

(Enacted by Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 29, effective September 1, 2005.)

SUBCHAPTER M
TOWARD EXCELLENCE, ACCESS, & SUCCESS (TEXAS) GRANT PROGRAM

Sec. 56.301. Definitions.

In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Eligible institution" means a general academic teaching institution or a medical and dental unit that offers one or more undergraduate degree or certification programs. The term does not include a public state college.

(3) "General academic teaching institution," "institution of higher education," "medical and dental unit," "public junior college," "public state college," and "public technical institute" have the meanings assigned by Section 61.003.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 30, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 5, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.302. Program Name; Purpose.

(a) Except as provided under Section 56.310(c), the student financial assistance program authorized by this subchapter is known as the Toward EXcellence, Access, & Success (TEXAS) grant program, and an individual grant awarded under this subchapter is known as a TEXAS grant.

(b) The purpose of this subchapter is to provide a grant of money to enable eligible students to attend eligible institutions in this state.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 31, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 7.015, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 6, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.3021. [Expires September 1, 2015] Students Enrolled in Private or Independent Institutions: Limited Eligibility for Grant.

(a) Notwithstanding any other provision of this subchapter, a student who was awarded a TEXAS grant under this subchapter to pay the costs of enrollment in a private or independent institution of higher education for the 2005 fall semester or an earlier academic period may continue to receive grants under this subchapter while enrolled in a private or independent institution of higher education if the student is otherwise eligible to receive a grant under this subchapter.

(b) For purposes of determining the eligibility of a student to continue to receive a grant under this section, a reference in this subchapter to an eligible institution includes a private or independent institution of higher education.

(c) The amount of a TEXAS grant under this section for a student enrolled full-time at a private or independent institution of higher education is the amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

(d) Notwithstanding Subsection (c) or other law, the total amount of financial aid that a student enrolled in a private or independent institution of higher education is eligible to receive in a state fiscal year from TEXAS grants awarded under this section may not exceed the maximum amount the student may receive in tuition equalization grants in that fiscal year as determined under Subchapter F, Chapter 61.

(e) Notwithstanding Subsection (c) or other law, a student enrolled in a private or independent institution of higher education may not receive a TEXAS grant under this section and a tuition equalization grant under Subchapter F, Chapter 61, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but for this subsection would be awarded both a TEXAS grant and a tuition equalization grant for the same semester or other term is entitled to receive only the grant of the greater amount.

(f) This section expires September 1, 2015.

(Enacted by Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 32, effective September 1, 2005.)

Sec. 56.303. Administration of Program.

(a) The coordinating board shall administer the TEXAS grant program and shall adopt any rules necessary to implement the TEXAS grant program or this subchapter. The coordinating board shall consult with the student financial aid officers of eligible institutions in developing the rules.

(b) The coordinating board shall adopt rules to provide a TEXAS grant to an eligible student enrolled in an eligible institution in the most efficient manner possible.

(c) The total amount of TEXAS grants awarded may not exceed the amount available for the program from appropriations, gifts, grants, or other funds.

(d) From money appropriated by the legislature for the purposes of this subchapter, the coordinating board annually shall determine the allocation of money available for TEXAS grants among general academic teaching institutions and other eligible institutions and shall distribute the money accordingly.

(d-1) In allocating among eligible institutions money available for initial TEXAS grants for an academic year, the coordinating board shall ensure that each of those institutions' proportional share of the total amount of money for initial grants that is allocated to eligible institutions under this section for that year does not, as a result of the number of students who establish eligibility at the institution for an initial grant under Section 56.3041(2)(A), change from the institution's proportional share of the total amount of money for initial grants that is allocated to those institutions under this section for the preceding academic year.

(e) In determining who should receive a TEXAS grant, the coordinating board and the eligible institutions shall give priority to awarding TEXAS grants to students who demonstrate the greatest financial need and whose expected family contribution, as determined according to the methodology used for federal student financial aid, does not exceed 60 percent of the average statewide amount of tuition and required fees described by Section 56.307(a). In giving priority based on financial need as required by this subsection to students who meet the requirements for the highest priority as provided by Subsection (f), an eligible institution shall determine financial need according to the relative expected family contribution of those students, beginning with students who have the lowest expected family contribution.

(f) Beginning with TEXAS grants awarded for the 2013-2014 academic year, in determining who should receive an initial TEXAS grant, each eligible institution, in addition to giving priority as provided by Subsection (e), shall give highest priority to students who meet the eligibility criteria described by Section 56.3041(2)(A). If there is money available in excess of the amount required to award an initial TEXAS grant to all students meeting those criteria, an eligible institution shall make awards to other students who meet the eligibility criteria described by Section 56.304(a)(2)(A), provided that the institution continues to give priority to students as provided by Subsection (e).

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 7, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.304. Initial Eligibility for Grant.

(a) To be eligible initially for a TEXAS grant, a person who graduated from high school before May 1, 2013, must:

(1) be a resident of this state as determined by coordinating board rules;

(2) meet either of the following academic requirements:

(A) be a graduate of a public or accredited private high school in this state who graduated not earlier than the 1998-1999 school year and

who completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or its equivalent; or

(B) have received an associate degree from a public or private institution of higher education not earlier than May 1, 2001;

(3) meet financial need requirements as defined by the coordinating board;

(4) be enrolled in a baccalaureate degree program at an eligible institution;

(5) be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for at least three-fourths of a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from a public or private institution of higher education;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

(b) A person is not eligible to receive a TEXAS grant if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise has been released from the resulting ineligibility to receive a grant under this subchapter.

(c) A person is not eligible to receive a TEXAS grant if the person has been granted a baccalaureate degree.

(d) A person may not receive a TEXAS grant for more than 150 semester credit hours or the equivalent.

(e) If a person is initially awarded a TEXAS grant before the 2005 fall semester, the person's eligibility for a TEXAS grant ends on the sixth anniversary of the initial award of a TEXAS grant to the person and the person's enrollment in an eligible institution, unless the person is provided additional time during which the person may receive a TEXAS grant under Subsection (e-2).

(e-1) If a person is initially awarded a TEXAS grant during or after the 2005 fall semester, unless the person is provided additional time during which the person may receive a TEXAS grant under Subsection (e-2), the person's eligibility for a TEXAS grant ends on:

(1) the fifth anniversary of the initial award of a TEXAS grant to the person, if the person is enrolled in a degree program of four years; or

(2) the sixth anniversary of the initial award of a TEXAS grant to the person, if the person is enrolled in a degree program of more than four years.

(e-2) The coordinating board shall adopt rules to provide a person who is otherwise eligible to receive a TEXAS grant additional time during which the person may receive a TEXAS grant in the event of a hardship or other good cause shown that prevents the person from continuing the person's enrollment during the period the person would otherwise have been eligible to receive a TEXAS grant, including a showing of a severe illness or other debilitating condition or that the person is or was responsible for the care of a sick, injured, or needy person.

(f) The requirement in Subsection (a)(2) that a person must have completed the recommended or advanced high school curriculum does not apply to a person who:

(1) attended a public high school in a school district if that district certifies to the commissioner of education that the high school did not offer all the necessary courses for a person to complete all parts of the recommended or advanced high school curriculum; and

(2) completed all courses at the high school offered toward the completion of the recommended or advanced high school curriculum.

(g) Not later than March 1 of each year, the commissioner of education shall provide to the coordinating board a list of all the public high schools that do not offer all the courses necessary to complete all parts of the recommended or advanced high school curriculum as described by Subsection (f)(1).

(h) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or

needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(5) or Section 56.3041(5), as applicable. The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 1, effective June 15, 2001; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 33, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1230 (H.B. 1172), § 6, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 3, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 8, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.3041. [2 Versions: As amended by Acts 2013, 83rd Leg., ch. 211] Initial Eligibility of Person Graduating from High School on or After May 1, 2013, and Enrolling in a General Academic Teaching Institution.

(a) Notwithstanding Section 56.304(a), to be eligible initially for a TEXAS grant, a person graduating from high school on or after May 1, 2013, and enrolling in a general academic teaching institution must:

(1) be a resident of this state as determined by coordinating board rules;

(2) meet the academic requirements prescribed by Paragraph (A), (B), or (C) as follows:

(A) be a graduate of a public or accredited private high school in this state who completed the foundation high school program established under Section 28.025 or its equivalent and have accomplished any two or more of the following:

(i) successful completion of the course requirements of the international baccalaureate diploma program or earning of the equivalent of at least 12 semester credit hours of college credit in high school through courses described in Sections 28.009(a)(1), (2), and (3);

(ii) satisfaction of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the coordinating board under Section 51.3062(f) on any assessment instrument designated by the coordinating board under Section 51.3062(c) or qualification for an exemption as described by Section 51.3062(p), (q), or (q-1);

(iii) graduation in the top one-third of the person's high school graduating class or graduation from high school with a grade point average of at least 3.0 on a four-point scale or the equivalent; or

(iv) completion for high school credit of at least one advanced mathematics course following the successful completion of an Algebra II course or at least one advanced career and technical or technology applications course;

(B) have received an associate degree from a public or private institution of higher education; or

(C) if sufficient money is available, meet the eligibility criteria described by Section 56.304(a)(2)(A);

(3) meet financial need requirements established by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at the general academic teaching institution;

(5) except as provided under rules adopted under Section 56.304(h), be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 16th month after the calendar month in which the person graduated from high school;

(B) an entering undergraduate student who entered military service not later than the first anniversary of the date the person graduated from high school and who enrolled for at least three-fourths of a full course load, as determined by the coordinating board, at the general academic teaching institution not later than 12 months after being honorably discharged from military service; or

(C) a continuing undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 12th month after the calendar month in which the person received an associate degree from a public or private institution of higher education;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirements adopted by the coordinating board under this subchapter.

(b) **[Expires September 1, 2020]** For purposes of Subsection (a)(2)(A), a student who graduated under the recommended or advanced high school program is considered to have successfully completed the curriculum requirements of Section 51.803(a)(2)(A)(i). This subsection expires September 1, 2020.

(Enacted by Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 68(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 68(b) provides: "This section applies beginning with the 2014-2015 school year."

Sec. 56.3041. [2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1155] Initial Eligibility of Person Graduating from High School on or After May 1, 2013.

To be eligible initially for a TEXAS grant, a person graduating from high school on or after May 1, 2013, and enrolling in an eligible institution must:

(1) be a resident of this state as determined by coordinating board rules;

(2) meet the academic requirements prescribed by Paragraph (A), (B), (C), or (D) as follows:

(A) be a graduate of a public or accredited private high school in this state who completed the recommended high school program established under Section 28.025 or its equivalent and have accomplished any two or more of the following:

(i) graduation under the advanced high school program established under Section 28.025 or its equivalent, successful completion of the course requirements of the international baccalaureate diploma program, or earning of the equivalent of at least 12 semester credit hours of college credit in high school through courses described in Sections 28.009(a)(1), (2)and (3);

(ii) satisfaction of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the coordinating board under Section 51.3062(f) on any assessment instrument designated by the coordinating board under Section 51.3062(c) or qualification for an exemption as described by Section 51.3062(p), (q), or (q-1);

(iii) graduation in the top one-third of the person's high school graduating class or graduation from high school with a grade point average of at least 3.0 on a four-point scale or the equivalent; or

(iv) completion for high school credit of at least one advanced mathematics course following the successful completion of an Algebra II course, as permitted by Section 28.025(b-3), or at least one advanced career and technical course, as permitted by Section 28.025(b-2);

(B) have received an associate degree from a public or private institution of higher education;

(C) be an undergraduate student who has:

(i) previously attended another institution of higher education;

(ii) received an initial Texas Educational Opportunity Grant under Subchapter P for the 2014 fall semester or a subsequent academic term;

(iii) completed at least 24 semester credit hours at any institution or institutions of higher education; and

(iv) earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on all course work previously attempted; or

(D) if sufficient money is available, meet the eligibility criteria described by Section 56.304(a)(2)(A);

(3) meet financial need requirements established by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at an eligible institution;

(5) except as provided under rules adopted under Section 56.304(h), be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 16th month after the calendar month in which the person graduated from high school;

(B) an entering undergraduate student who entered military service not later than the first anniversary of the date the person graduated from high school and who enrolled for at least three-fourths of a full course load, as determined by the coordinating board, at the eligible institution not later than 12 months after being honorably discharged from military service;

(C) a continuing undergraduate student for at least three-fourths of a full course load, as determined by the coordinating board, not later than the 12th month after the calendar month in which the person received an associate degree from a public or private institution of higher education; or

(D) an undergraduate student described by Subdivision (2)(C) who has never previously received a TEXAS grant;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirements adopted by the coordinating board under this subchapter.

(Enacted by Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 9, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.3042. Initial Qualification of Person on Track to Meet Eligibility Requirements.

(a) If at the time an eligible institution awards TEXAS grants to initial recipients for an academic year an applicant has not completed high school or the applicant's final high school transcript is not yet available to the institution, the student is considered to have satisfied the eligibility requirements of Section 56.304(a)(2)(A) or 56.3041(2)(A) if the student's available high school transcript indicates that at the time the transcript was prepared the student was on schedule to graduate from high school and to meet the eligibility requirements, as applicable to the student, in time to be eligible for a TEXAS grant for the academic year.

(a-1) If at the time an eligible institution awards TEXAS grants to initial recipients for an academic year an applicant who is an associate degree candidate has not completed that degree or the applicant's final college transcript is not yet available to the institution, the student is considered to have satisfied the associate degree requirement of Section 56.304(a)(2)(B) or 56.3041(2)(B) if the student's available college transcript indicates that at the time the transcript was prepared the student was on schedule to complete the associate degree in time to be eligible for a TEXAS grant for the academic year.

(b) The coordinating board or the eligible institution may require the student to forgo or repay the amount of an initial TEXAS grant awarded to the student as described by Subsection (a) or (a-1) if the student fails to meet the eligibility requirements described by Subsection (a) or (a-1), as applicable to the student, after the issuance of the available high school or college transcript.

(c) A person who is required to forgo or repay the amount of an initial TEXAS grant under Subsection (b) may subsequently become eligible to receive an initial TEXAS grant under Section 56.304 or 56.3041 by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) or 56.3041(2)(B) and the other requirements of those sections applicable to the person at the time the person reapplies for the grant.

(d) A person who receives an initial TEXAS grant under Subsection (a) or (a-1) but does not satisfy the applicable eligibility requirement that the person was considered to have satisfied under the applicable subsection and who is not required to forgo or repay the amount of the grant under Subsection (b) may become eligible to receive a subsequent TEXAS grant under Section 56.305 only by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) or 56.3041(2)(B), as applicable to the person, in addition to the requirements of Section 56.305 at the time the person applies for the subsequent grant.

(Enacted by Acts 2003, 78th Leg., ch. 919 (S.B. 1007), § 1, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 4, effective September 1, 2011 (renumbered from Sec. 56.3041); am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 10, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Sec. 56.3045. Tolling of Eligibility for Initial Award.

(a) This section applies only to a person who:

(1) was eligible to receive an initial TEXAS grant in an academic year for which sufficient money was not available through legislative appropriations to allow the coordinating board to award initial TEXAS grants to at least 10 percent of the persons eligible for initial TEXAS grants in that year, as determined by the coordinating board;

(2) has not previously been awarded a TEXAS grant; and

(3) has not received a baccalaureate degree.

(b) Provided that the person meets the requirements described by Section 56.305(a), a person to whom this section applies is eligible to receive an initial TEXAS grant in any academic year in which funding is sufficient to award initial TEXAS grants to eligible applicants for that year. The person's eligibility for an initial TEXAS grant under this section is not affected by:

(1) the period for which the person has been enrolled at an eligible institution; or

(2) any statutory changes to the eligibility requirements for initial TEXAS grants that are enacted after the person first established eligibility for an initial TEXAS grant as described by Subsection (a)(1).

(c) A person who is eligible for an initial TEXAS grant under this section is entitled to the highest priority as described by Section 56.303(f) if the person was entitled to that priority when the person first established eligibility for an initial TEXAS grant as described by Subsection (a)(1).

(d) A person who receives an initial TEXAS grant under this section:

(1) may receive subsequent TEXAS grants as provided by Section 56.305; and

(2) is not entitled to TEXAS grants for any previously completed academic year.

(Enacted by Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 5, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

Sec. 56.305. Continuing Eligibility and Academic Performance Requirements.

(a) After initially qualifying for a TEXAS grant, a person may continue to receive a TEXAS grant during each semester or term in which the person is enrolled at an eligible institution only if the person:

(1) meets financial need requirements as defined by the coordinating board;

(2) is enrolled in a baccalaureate degree program at an eligible institution;

(3) is enrolled for at least three-fourths of a full course load for an undergraduate student, as determined by the coordinating board;

(4) makes satisfactory academic progress toward a baccalaureate degree; and

(5) complies with any additional nonacademic requirement adopted by the coordinating board.

(b) A person is not eligible to continue to receive a TEXAS grant under this section if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise has been released from the resulting ineligibility to receive a grant under this subchapter.

(c) If a person fails to meet any of the requirements of Subsection (a) after the completion of any semester or term, the person may not receive a TEXAS grant during the next semester or term in which the person enrolls. A person may become eligible to receive a TEXAS grant in a subsequent semester or term if the person:

(1) completes a semester or term during which the student is not eligible for a scholarship; and

(2) meets all the requirements of Subsection (a).

(d) A person who qualifies for and subsequently receives a TEXAS grant, who receives an undergraduate certificate or associate degree, and who, not later than the 12th month after the month the person receives the certificate or degree, enrolls in a program leading to a higher-level undergraduate degree continues to be eligible for a TEXAS grant to the extent other eligibility requirements are met.

(e) **[2 Versions: As amended by Acts 2005, 79th Leg., ch. 1181]** For the purpose of this section, a person makes satisfactory academic progress toward an undergraduate degree or certificate only if:

(1) in the person's first academic year the person meets the satisfactory academic progress requirements of the institution at which the person is enrolled; and

(2) in a subsequent academic year, the person:

(A) completes at least 75 percent of the semester credit hours attempted in the student's most recent academic year; and

(B) earns an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions of higher education.

(e) **[2 Versions: As amended by Acts 2005, 79th Leg., ch. 1230]** For the purpose of this section, a person who is initially awarded a TEXAS grant before the 2005 fall semester makes satisfactory academic progress toward an undergraduate degree or certificate only if:

(1) in the person's first academic year the person meets the satisfactory academic progress requirements of the institution at which the person is enrolled; and

(2) in a subsequent academic year, the person:

(A) completes at least 75 percent of the semester credit hours attempted in the student's most recent academic year; and

(B) earns an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at institutions of higher education.

(e-1) For purposes of this section, a person who is initially awarded a TEXAS grant during or after the 2005 fall semester makes satisfactory academic progress toward an undergraduate degree or certificate only if:

(1) in the person's first academic year the person meets the satisfactory academic progress requirements of the institution at which the person is enrolled; and

(2) in a subsequent academic year, the person:

(A) completed at least 24 semester credit hours in the student's most recent academic year; and

(B) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at institutions of higher education.

(f) A person who is eligible to receive a TEXAS grant continues to remain eligible to receive the TEXAS grant if the person enrolls in or transfers to another eligible institution.

(g) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant:

(1) while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(3); or

(2) if the student's grade point average or the student's completion rate or number of semester credit hours completed, as applicable, falls below the satisfactory academic progress requirements of Subsection (e) or (e-1).

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2003, 78th Leg., ch. 919 (S.B. 1007), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 34, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1230 (H.B. 1172), § 7, effective June 18, 2005; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 11, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.306. Grant Use.

A person receiving a TEXAS grant may use the money to pay any usual and customary cost of attendance at an eligible institution incurred by the student. The institution may disburse all or part of the proceeds of a TEXAS grant directly to an eligible person only if the tuition and required fees incurred by the person at the institution have been paid.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 12, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.307. Grant Amount.

(a) The amount of a TEXAS grant for a semester or term for a person enrolled full-time at an eligible institution is an amount determined by the coordi-

nating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

(b) [Repealed by Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 55, effective September 1, 2005.]

(c), (d) [Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(5), effective September 1, 2013.]

(d-1) The coordinating board shall determine the average statewide tuition and fee amounts for a semester or term of the next academic year for purposes of this section by using the amounts of tuition and required fees that will be charged by the eligible institutions for that semester or term in that academic year. The board may estimate the amount of the charges for a semester or term in the next academic year by an institution if the relevant information is not yet available to the board.

(e) The coordinating board may adopt rules that allow the coordinating board to increase or decrease, in proportion to the number of semester credit hours in which a student is enrolled, the amount of a TEXAS grant award under this section to a student who is enrolled in a number of semester credit hours in excess of or below the number of semester credit hours described in Section 56.304(a)(5) or 56.305(a)(3).

(f) The amount of a TEXAS grant may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the student's financial need.

(g) Not later than January 31 of each year, the coordinating board shall publish the amounts of each grant established by the board for each type of institution for the academic year beginning the next fall semester.

(h) [Repealed by Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 55, effective September 1, 2005; Acts 2005, 79th Leg., ch. 1230 (H.B. 1172), § 17, effective June 18, 2005.]

(i) A public institution of higher education may not:

(1) unless the institution complies with Subsection (j), charge a person attending the institution who also receives a TEXAS grant an amount of tuition and required fees in excess of the amount of the TEXAS grant received by the person; or

(2) deny admission to or enrollment in the institution based on a person's eligibility to receive a TEXAS grant or a person's receipt of a TEXAS grant.

(i-1) A public institution of higher education may elect to award a TEXAS grant to any student in an amount that is less than the applicable amount established under Subsection (a) or (e).

(j) A public institution of higher education shall use other available sources of financial aid, other than a loan, to cover any difference in the amount of a TEXAS grant awarded to the student and the actual amount of tuition and required fees at the institution if the difference results from:

(1) a reduction in the amount of a TEXAS grant under Subsection (i-1); or

(2) a deficiency in the amount of the grant as established under Subsection (a) or (e), as applicable, to cover the full amount of tuition and required fees charged to the student by the institution.

(k) The legislature in an appropriations act shall account for tuition and required fees received under this section in a way that does not increase the general revenue appropriations to that institution.

(*l*) The coordinating board shall provide information regarding the Texas B-On-time loan program established under Subchapter Q to each eligible applicant who receives less than the full amount of a TEXAS grant.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2003, 78th Leg., ch. 919 (S.B. 1007), § 3, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 35, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 55, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1230 (H.B. 1172), § 17, effective June 18, 2005; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), §§ 13, 62(5), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 64(a) provides: "The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with TEXAS grants awarded for the 2014 fall semester. Grants awarded for a semester or term before the 2014 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2013], and the former law is continued in effect for that purpose."

Sec. 56.3071. Effect of Eligibility for Tuition Equalization Grant.

(a) Notwithstanding Section 56.307, the total amount of financial aid that a student enrolled in a private or independent institution of higher education is eligible to receive in a state fiscal year from TEXAS grants awarded under this subchapter may not exceed the maximum amount the student may receive in tuition equalization grants in that fiscal year as determined under Subchapter F, Chapter 61.

(b) Notwithstanding any other law, a student enrolled in a private or independent institution of higher education may not receive a TEXAS grant

under this subchapter and a tuition equalization grant under Subchapter F, Chapter 61, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but for this subsection would be awarded both a TEXAS grant and a tuition equalization grant for the same semester or other term is entitled to receive only the grant of the greater amount.

(Enacted by Acts 2005, 79th Leg., ch. 1230 (H.B. 1172), § 8, effective June 18, 2005.)

Sec. 56.3075. Health Care Profession Student Grant.

(a) If the money available for TEXAS grants in a period for which grants are awarded is sufficient to provide grants to all eligible applicants in amounts specified by Section 56.307, the coordinating board may use any excess money available for TEXAS grants to award a grant in an amount not more than three times the amount that may be awarded under Section 56.307 to a student who:

(1) is enrolled in a program that fulfills the educational requirements for licensure or certification by the state in a health care profession that the coordinating board, in consultation with the Texas Workforce Commission and the statewide health coordinating council, has identified as having a critical shortage in the number of license holders needed in this state;

(2) has completed at least one-half of the work toward a degree or certificate that fulfills the educational requirement for licensure or certification; and

(3) meets all the requirements to receive a grant award under Section 56.307.

(b) In awarding a grant under Subsection (a), the coordinating board may:

(1) give priority to students from a group underrepresented in the programs preparing students for licensure or certification by the state; and

(2) award different amounts based on the amount of course work a student has completed toward earning the degree required for licensure or certification.

(Enacted by Acts 2003, 78th Leg., ch. 728 (H.B. 3126), § 3, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 36, effective September 1, 2005.)

Sec. 56.308. Notification of Program; Responsibilities of School Districts.

(a) The coordinating board shall distribute to each eligible institution and to each school district a copy of the rules adopted under this subchapter.

(b) Each school district shall:

(1) notify its middle school students, junior high school students, and high school students, those students' teachers and school counselors, and those students' parents of the TEXAS grant and Teach for Texas grant programs, the eligibility requirements of each program, the need for students to make informed curriculum choices to be prepared for success beyond high school, and sources of information on higher education admissions and financial aid in a manner that assists the district in implementing a strategy adopted by the district under Section 11.252(a)(4); and

(2) ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete:

(A) the recommended or advanced high school curriculum required for grant eligibility under Section 28.002 or 28.025; or

(B) for a school district covered by Section 56.304(f)(1), the required portion of the recommended or advanced high school curriculum in the manner described by Section 56.304(f)(2).

(c) The information required by Subsection (b)(2) must be included on a student's transcript not later than the end of the student's junior year.

(d) In addition to the eligibility requirements of Section 56.304, a person who graduated from an accredited private high school is eligible to receive a grant under this subchapter only if the student's official transcript or diploma includes the information required as provided by Subsections (b)(2)(A) and (c).

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 5, effective June 15, 2001; am. Acts 2013, 83rd Leg., ch. 443 (S.B. 715), § 36, effective June 14, 2013.)

Sec. 56.309. Teach for Texas Grant Program [Renumbered].

Renumbered to Tex. Educ. Code §§ 56.352 to 56.356 by Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001 (renumbered as Secs. 56.352 to 56.356).)

Sec. 56.310. Funding.

(a) The coordinating board may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

(b) The legislature may appropriate money for the purposes of this subchapter.

(c) In performing its duties under Subsection (a), the coordinating board may develop and implement an appropriate process for the naming and sponsoring of the program created under this subchapter, an individual grant awarded under this subchapter, or any item received by the coordinating board under Subsection (a).

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2005, 79th Leg., ch. 1181 (S.B. 1227), § 37, effective September 1, 2005.)

Sec. 56.311. Legislative Oversight Committee.

(a) The Legislative Oversight Committee on the TEXAS grant program and Teach for Texas grant program is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The committee shall:

(1) meet at least twice a year with the coordinating board; and

(2) receive information regarding rules relating to the TEXAS grant program and Teach for Texas grant program that have been adopted by the coordinating board or proposed for adoption by the coordinating board.

(c) The committee may request reports and other information from the coordinating board relating to the operation of the TEXAS grant program and Teach for Texas grant program by the coordinating board.

(c-1) Not later than September 1 of each year, the coordinating board shall provide a report to the committee regarding the operation of the TEXAS grant program, including information from the three preceding state fiscal years as follows:

(1) allocations of TEXAS grants by eligible institution, disaggregated by initial and subsequent awards;

(2) the number of TEXAS grants awarded to students disaggregated by race, ethnicity, and expected family contribution;

(3) disaggregated as required by Subdivision (2) and reported both on a statewide basis and for each eligible institution, the number of TEXAS grants awarded to students who meet:

(A) only the eligibility criteria described by Section 56.304; or

(B) the eligibility criteria described by Section 56.3041(2)(A); and

(4) the persistence, retention, and graduation rates of students receiving TEXAS grants.

(d) The committee shall review the specific recommendations for legislation related to this subchapter that are proposed by the coordinating board.

(e) The committee shall monitor the operation of the TEXAS grant program and Teach for Texas grant program, with emphasis on the manner of the award of grants, the number of grants awarded, and the educational progress made by persons who have received grants under those programs.

(f) The committee shall file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(g) The report shall include identification of any problems in the TEXAS grant program and Teach for Texas grant program with recommended solutions for the coordinating board and for legislative action.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 6, effective June 15, 2001; am. Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 6, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1197 (S.B. 28), § 7 provides: "The change in law made to Subchapter M, Chapter 56, Education Code, by this Act applies beginning with TEXAS grants awarded for the 2013 fall semester. Grants awarded for a semester or term before the 2013 fall semester are governed by the applicable law in effect immediately before the effective date of this Act [September 1, 2011], and the former law is continued in effect for that purpose."

SUBCHAPTER O
TEACH FOR TEXAS LOAN REPAYMENT ASSISTANCE PROGRAM

Sec. 56.351. Definition.

In this subchapter, "coordinating board" means the Texas Higher Education Coordinating Board.

(Enacted by Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

Sec. 56.352. Purpose of Program; Loan Repayment Authorized.

(a) The purpose of this subchapter is to attract to the teaching profession persons who have expressed interest in teaching and to support the employment of those persons as classroom teachers by providing student loan repayment assistance for service as a classroom teacher in the public schools of this state.

(b) The coordinating board shall provide, in accordance with this subchapter and board rules, assistance in the repayment of eligible student loans for persons who apply and qualify for the assistance.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001 (renumbered from Sec. 56.309(a)); am. Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

Sec. 56.353. Eligibility.

(a) Teach for Texas repayment assistance is available only to a person who applies for the assistance and who:

(1) is certified in a teaching field identified by the commissioner of education as experiencing a critical shortage of teachers in this state in the year in which the person receives the assistance and has for at least one year taught full-time at, and is currently teaching full-time at, the preschool, primary, or secondary level in a public school in this state in that teaching field; or

(2) is a certified educator who has for at least one year taught full-time at, and is currently teaching full-time at, the preschool, primary, or secondary level in a public school in this state in a community identified by the commissioner of education as experiencing a critical shortage of teachers in the year in which the person receives the assistance.

(b) The coordinating board in awarding repayment assistance shall give priority to applicants who demonstrate financial need.

(c) If the money available for loan repayment assistance in a period for which assistance is awarded is insufficient to provide assistance to all eligible applicants described by Subsection (b), the coordinating board shall establish priorities for awarding repayment assistance to address the most critical teacher shortages described by Subsection (a).

(d) A person may not receive loan repayment assistance for more than five years.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001 (renumbered from Sec. 56.309(b)); am. Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

Sec. 56.354. Eligible Loans.

(a) A person may receive Teach for Texas loan repayment assistance under this subchapter for the repayment of any student loan for education at any public or private institution of higher education through any lender. If the loan is not a state or federal guaranteed student loan, the note or other writing governing the terms of the loan must require the loan proceeds to be used for expenses incurred by a person to attend a public or private institution of higher education.

(b) The coordinating board may not provide loan repayment assistance for a student loan that is in default at the time of the person's application.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001 (renumbered from Sec. 56.309(d)); am. Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

Sec. 56.355. Payment of Assistance.

(a) The coordinating board may determine the manner in which Teach for Texas loan repayment assistance is to be paid. The coordinating board may provide for the payment of a portion of the repayment assistance in one or more installments before the person completes a full year of service as a teacher and for the payment of the remainder of the repayment assistance for that year after the completion of the full year of service.

(b) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

(Enacted by Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

Sec. 56.356. Satisfying Teaching Obligation; Repayment [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 57(a), effective September 1, 2003.

(Enacted by Acts 1999, 76th Leg., ch. 1590 (H.B. 713), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001 (renumbered from Sec. 56.309(e) to (i)).)

Sec. 56.357. Teach for Texas Alternative Certification Assistance Program.

(a) The coordinating board shall establish a program under which the coordinating board awards grants to assist persons seeking educator certification through alternative educator certification programs as provided by this section.

(b) To be eligible for a grant under the program, a person must apply for a grant and:

(1) have received a baccalaureate degree from an eligible institution of higher education or an accredited out-of-state institution of higher education; and

(2) enroll in an alternative educator certification program described by Section 21.049 and satisfy either of the following conditions:

(A) be seeking educator certification in a teaching field certified by the commissioner of

education as experiencing a critical shortage of teachers in this state in the year in which the person receives the grant and agree to teach for five years in a public school in this state in that teaching field; or

(B) agree to teach for five years in a public school in this state in a community, which is not required to be specifically designated at the time the person receives the grant, certified by the commissioner of education as experiencing a critical shortage of teachers in any year in which the person receives a grant under this section or in any subsequent year in which the person fulfills the teaching obligation.

(c) A person is not eligible to receive a grant under the program if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance, as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this section and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise has been released from the resulting ineligibility to receive a grant under the program.

(d) In selecting applicants to receive grants under the program, the coordinating board shall consider:

(1) the financial resources of an applicant;

(2) the efficient use of the money available for grants;

(3) the opportunity of applicants from all regions of this state to receive grants; and

(4) any other factor the coordinating board considers appropriate to further the purposes of this subchapter.

(e) The amount of a grant under the program is equal to two times the current amount of a TEXAS grant under Subchapter M for a student enrolled in a general academic teaching institution. The coordinating board may pay the amount of the grant in installments during the period in which the person is enrolled in the person's alternative educator certification program.

(f) The person must begin fulfilling the person's teaching obligation not later than the 18th month after the person completes the alternative educator certification program, unless the coordinating board for good cause grants the person additional time to begin fulfilling the teaching obligation. The person must complete the teaching obligation not later than the sixth year after the date the person begins to fulfill the teaching obligation. The coordinating board shall grant a person additional time to complete the teaching obligation for good cause.

(g) The coordinating board shall cancel a person's teaching obligation if the coordinating board determines that the person:

(1) has become permanently disabled so that the person is not able to teach; or

(2) has died.

(h) The coordinating board shall require a person who receives a grant to sign a promissory note acknowledging the conditional nature of the grant and promising to repay the amount of the grant plus applicable interest and reasonable collection costs if the person does not satisfy the applicable conditions of the grant. The coordinating board shall determine the terms of the promissory note.

(i) The amount required to be repaid by a person who fails to complete the teaching obligation of the person's grant shall be determined in proportion to the portion of the teaching obligation that the person has not satisfied.

(j) A person receiving a grant is considered to have failed to satisfy the conditions of the grant, and the grant automatically becomes a loan, if the person, without good cause as determined by the coordinating board, fails to:

(1) remain enrolled in or to make steady progress in the alternative educator certification program for which the grant was made or, with the approval of the coordinating board, in another alternative educator certification program; or

(2) become certified as a classroom teacher not later than the 18th month after the date the person completes the alternative educator certification program.

(Enacted by Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001.)

Sec. 56.3575. Administration; Rules.

(a) The coordinating board shall adopt rules necessary for the administration of this subchapter.

(b) The coordinating board shall distribute a copy of the rules adopted under this section and pertinent information relating to this subchapter to each public or private institution of higher education in this state that offers an educator certification program, including an alternative educator certification program or another equivalent program.

(Enacted by Acts 2003, 78th Leg., ch. 728 (H.B. 3126), § 4, effective June 20, 2003; enacted by Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

Sec. 56.358. Funding; Allocation of Funding.

(a) The coordinating board may solicit and accept gifts and grants from any public or private source for the purposes of this subchapter.

(b) The legislature may appropriate money for the purposes of this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1261 (S.B. 1057), § 3, effective June 15, 2001.)

Sec. 56.359. Grants and Service Agreements Entered into Under Former Law; Saving Provision.

(a) This section applies only to a person who was awarded a Teach for Texas grant and entered into a written agreement to perform service as a public school teacher in this state in order to receive the grant under this subchapter before September 1, 2003.

(b) A person to whom this section applies may receive any unpaid installments of the grant as provided by the agreement and in accordance with this subchapter as it existed when the grant was awarded. The agreement continues in effect and this subchapter, as it existed when the person entered into the agreement, is continued in effect for purposes of that agreement until the person satisfies all the conditions of the agreement or repays all amounts due under the agreement if the person does not satisfy the conditions of the agreement.

(Enacted by Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 49, effective September 1, 2003.)

SUBTITLE B
STATE COORDINATION OF HIGHER EDUCATION

CHAPTER 61
TEXAS HIGHER EDUCATION COORDINATING BOARD [EXPIRES SEPTEMBER 1, 2025]

Subchapter C. Powers and Duties of Board [Expires September 1, 2025]

SUBCHAPTER C
POWERS AND DUTIES OF BOARD
[EXPIRES SEPTEMBER 1, 2025]

Sec. 61.076. [Expires September 1, 2025] P-16 Council.

(a) It is the policy of the State of Texas that the entire system of education supported with public funds be coordinated to provide the citizens with efficient, effective, and high quality educational services and activities. The P-16 Council, in conjunction with other agencies as may be appropriate, shall ensure that long-range plans and educational programs for the state complement the functioning of the entire system of public education, extending from early childhood education through postgraduate study.

(b) The P-16 Council is composed of the commissioner of education, the commissioner of higher education, the executive director of the Texas Workforce Commission, the executive director of the State Board for Educator Certification, and the commissioner of assistive and rehabilitative services. The commissioner of higher education and the commissioner of education shall serve as co-chairs of the council.

(c) The co-chairs may appoint six additional members who are education professionals, agency representatives, business representatives, or other members of the community. Members appointed to the council under this subsection serve two-year terms expiring February 1 of each odd-numbered year.

(d) The council shall meet at least once each calendar quarter and may hold other meetings as necessary at the call of the co-chairs. Each member of the council or the member's designee shall make a report of the council's activities at least twice annually to the governing body of the member's agency, except that the commissioner of education or that commissioner's designee shall report to the State Board of Education and the commissioner of assistive and rehabilitative services or that commissioner's designee shall report to the executive commissioner of the Health and Human Services Commission.

(e) The council shall coordinate plans and programs, including curricula, instructional programs, research, and other functions as appropriate. This coordination shall include the following areas:

(1) equal educational opportunity for all Texans;

(2) college recruitment, with special emphasis on the recruitment of minority students;

(3) preparation of high school students for further study at colleges and universities;

(4) reduction of the dropout rate and dropout prevention;

(5) teacher education, recruitment, and retention;

(6) testing and assessment; and

(7) adult education programs.

(f) The council shall examine and make recommendations regarding the alignment of secondary and postsecondary education curricula and testing and assessment. This subsection does not require the council to establish curriculum or testing or assessment standards.

(g) The council shall advise the board and the State Board of Education on the coordination of postsecondary career and technology activities, career and technology teacher education programs offered or proposed to be offered in the colleges and universities of this state, and other relevant matters, including:

(1) coordinating postsecondary career and technology education and the articulation between postsecondary career and technology education and secondary career and technology education;

(2) facilitating the transfer of responsibilities for the administration of postsecondary career and technology education from the State Board of Education to the board in accordance with Section 111(a)(I) of the Carl D. Perkins Vocational Education Act (Pub. L. No. 98-524);

(3) advising the State Board of Education, when it acts as the State Board for Career and Technology Education, on the following:

(A) the transfer of federal funds to the board for allotment to eligible public postsecondary institutions of higher education;

(B) the career and technology education funding for projects and institutions as determined by the board when the State Board for Career and Technology Education is required by federal law to endorse those determinations;

(C) the development and updating of the state plan for career and technology education and the evaluation of programs, services, and activities of postsecondary career and technology education and amendments to the state plan for career and technology education as may relate to postsecondary education;

(D) other matters related to postsecondary career and technology education; and

(E) the coordination of curricula, instructional programs, research, and other functions as appropriate, including school-to-work and school-to-college transition programs and professional development activities; and

(4) advising the Texas Workforce Investment Council on educational policy issues related to workforce preparation.

(h) The council, in conjunction with the State Center for Early Childhood Development, shall develop and adopt a school readiness certification system as required by Section 29.161.

(i) [Expired pursuant to Acts 2005, 79th Leg., ch. 1140 (H.B. 2808), § 1, effective January 2, 2007.]

(Enacted by Acts 1989, 71st Leg., ch. 1084 (S.B. 457), art. 1, § 1.21, effective September 1, 1989; am. Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 16, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1140 (H.B. 2808), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), art. 4, § 4.010, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1033 (H.B. 2909), § 3, effective June 17, 2011.)

Sec. 61.0761. [Expires September 1, 2025] P-16 College Readiness and Success Strategic Action Plan.

(a) The P-16 Council established under Section 61.076 shall recommend to the commissioner of education and the board a college readiness and success strategic action plan to increase student success and decrease the number of students enrolling in developmental course work in institutions of higher education. The plan must include:

(1) definitions, as determined by the P-16 Council in coordination with the State Board of Education, of the standards and expectations for college readiness that address the knowledge and skills expected of students to perform successfully in entry-level courses offered at institutions of higher education;

(2) a description of the components of a P-16 individualized graduation plan sufficient to prepare students for college success;

(3) the manner in which the Texas Education Agency should provide model curricula for use as a reference tool by school district employees;

(4) recommendations to the Texas Education Agency, the State Board of Education, and the board regarding strategies for decreasing the number of students enrolling in developmental course work at institutions of higher education;

(5) recommendations to the State Board for Educator Certification regarding changes to educator certification and professional development requirements that contribute to the ability of

public school teachers to prepare students for higher education; and

(6) any other elements that the commissioner of education and the board suggest for inclusion in the plan.

(b) The commissioner of education and the board shall adopt the college readiness and success strategic action plan recommended by the P-16 Council if the commissioner of education and the board determine that the plan meets the requirements of this section.

(c) Notwithstanding any other provision of this section, the State Board of Education retains the board's authority over the required curriculum adopted under Section 28.002.

(d) [Repealed by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(9), effective September 1, 2013 and by Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(5), effective September 1, 2013.]

(e) The commissioner of education and the board shall adopt rules necessary to implement this section.

(Enacted by Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.08, effective May 31, 2006; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 62(9), effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(5), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 15.01 provides: "Except as otherwise provided by this Act, this Act applies beginning with the 2006-2007 school year."

Sec. 61.0762. [Expires September 1, 2025] Programs to Enhance Student Success.

(a) To implement the college readiness and success strategic action plan adopted under Section 61.0761 and to enhance the success of students at institutions of higher education, the board by rule shall:

(1) develop higher education bridge programs in the subject areas of mathematics, science, social science, or English language arts to increase student success by reducing the need for developmental education;

(2) develop incentive programs for institutions of higher education that implement research-based, innovative developmental education initiatives;

(3) develop a pilot program to award grants to institutions of higher education for intensive programs designed to address the needs of students at risk of dropping out of college;

(4) develop professional development programs for faculty of institutions of higher education on college readiness standards and the implications of such standards on instruction; and

(5) develop other programs as determined by the board that support the participation and success goals in "Closing the Gaps," the state's master plan for higher education.

(b) The board may award a grant under Subsection (a)(3) to an institution of higher education only if at least 50 percent of the students served in the program:

(1) have a score on the Scholastic Assessment Test (SAT) or American College Test (ACT) that is less than the national mean score for that test;

(2) have been awarded a grant under the federal Pell grant program;

(3) are at least 20 years of age on the date the student enrolls as a first-time freshman in the institution of higher education;

(4) have enrolled or will initially enroll as a part-time student; or

(5) meet any other requirements established by the board.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.08, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 851 (S.B. 2258), § 2, effective June 19, 2009.)

Sec. 61.07621. [Expires September 1, 2025] Texas Governor's Schools.

(a) A Texas governor's school is a summer residential program for high-achieving high school students. A governor's school program may include any or all of the following educational curricula:

(1) mathematics and science;

(2) humanities;

(3) fine arts; or

(4) leadership and public policy.

(b) A public senior college or university may apply to the board to administer a Texas governor's school program under this section. The board shall give preference to a public senior college or university that applies in cooperation with a nonprofit association. The board shall give additional preference if the nonprofit association receives private foundation funds that may be used to finance the program.

(c) The board may approve an application under this section only if the applicant:

(1) applies within the period and in the manner required by rule adopted by the board;

(2) submits a program proposal that includes:

(A) a curriculum consistent with Subsection (a);

(B) criteria for selecting students to participate in the program;

(C) a statement of the length of the program, which must be at least three weeks; and

(D) a statement of the location of the program;

(3) agrees to use a grant under this section only for the purpose of administering a program; and

(4) satisfies any other requirements established by rule adopted by the board.

(d) The criteria described by Subsection (c)(2)(B) must include grade point average, academic standing, and extracurricular activities.

(e) From funds appropriated to the board, the board may make a grant in an amount not to exceed $750,000 each year to public senior colleges or universities whose applications are approved under this section to pay the costs of administering a Texas governor's school program.

(f) The board may adopt other rules necessary to implement this section.

(Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 5.04, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 876 (H.B. 1748), § 1, effective June 15, 2007 (renumbered from Sec. 29.124).)

Sec. 61.0763. [Expires December 31, 2020] Student Loan Default Prevention and Financial Aid Literacy Pilot Program.

(a) In this section, "career school or college" has the meaning assigned by Section 132.001.

(b) Not later than January 1, 2014, the board shall establish and administer a pilot program at selected postsecondary educational institutions to ensure that students of those institutions are informed consumers with regard to all aspects of student financial aid, including:

(1) the consequences of borrowing to finance a student's postsecondary education;

(2) the financial consequences of a student's academic and career choices; and

(3) strategies for avoiding student loan delinquency and default.

(c) The board shall select at least one institution from each of the following categories of postsecondary educational institutions to participate in the program:

(1) general academic teaching institutions;

(2) public junior colleges;

(3) private or independent institutions of higher education; and

(4) career schools or colleges.

(d) In selecting postsecondary educational institutions to participate in the pilot program, the board shall give priority to institutions that have a three-year cohort student loan default rate, as reported by the United States Department of Education:

(1) of more than 20 percent; or

(2) that has above average growth as compared to the rates of other postsecondary educational institutions in this state.

(e) The board, in consultation with postsecondary educational institutions, shall adopt rules for the administration of the pilot program, including rules governing the selection of postsecondary educational institutions to participate in the pilot program consistent with the requirements of Subsection (d).

(f) The board may contract with one or more entities to administer the pilot program according to criteria established by board rule.

(g) Not later than January 1 of each year, beginning in 2016:

(1) the board shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the outcomes of the pilot program, as reflected in the federal student loan default rates reported for the participating institutions; and

(2) each participating institution shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the outcomes of the pilot program at the institution, as reflected in the federal student loan default rate reported for the institution.

(h) This section expires December 31, 2020.

(Enacted by Acts 2013, 83rd Leg., ch. 561 (S.B. 680), § 1, effective September 1, 2013; Enacted by Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 45, effective September 1, 2013.)

Sec. 61.077. [Expires September 1, 2025] Academic Advising Assessment.

(a) The board shall establish a method for assessing the quality and effectiveness of academic advising services available to students at each institution of higher education. In establishing the method of assessment, the board shall consult with representatives from institutions of higher education, including academic advisors and other professionals the board considers appropriate.

(b) The method of assessment established under this section must:

(1) include the use of student surveys; and

(2) identify objective, quantifiable measures for determining the quality and effectiveness of academic advising services at an institution of higher education.

(c) [Expired pursuant to Acts 2011, 82nd Leg., ch. 360 (S.B. 36), § 1, effective October 1, 2012.]

(Enacted by Acts 2011, 82nd Leg., ch. 360 (S.B. 36), § 1, effective June 17, 2011.)

Sec. 61.089. [Expires September 1, 2025] State Science and Engineering Fairs.

(a) The board shall conduct an annual state science and engineering fair as part of an outreach program for middle school, junior high school, and high school students to:

(1) promote an appreciation for and interest in science, mathematics, and engineering among middle school, junior high school, and high school students;

(2) assist schools and school districts in fulfilling their missions of science, mathematics, and engineering education; and

(3) promote workforce development in the fields of science, mathematics, and engineering by providing students with an opportunity to interact with higher education and corporate institutions.

(b) The board may contract with public or private entities to conduct the state fair.

(c) The board shall coordinate the state fair with local and regional science and engineering fairs held in this state.

(d) The board shall adopt rules for the organization and operation of the state fair and shall select the participants in the fair.

(e) The board may use general revenue funds appropriated for that purpose and any gifts, grants, and donations to conduct the state fair. The amount of general revenue funds appropriated for that purpose in a state fiscal year may not exceed $10,000 or the total amount of money received as gifts, grants, or donations, whichever amount is less.

(Enacted by Acts 2001, 77th Leg., ch. 562 (H.B. 3028), § 1, effective June 11, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(36), effective September 1, 2003 (renumbered from Sec. 61.088).)

SUBCHAPTER T
TECH-PREP EDUCATION

Sec. 61.858. [Expires September 1, 2025] Tech-Prep Consortium Evaluation.

(a) The board shall develop and implement a statewide system to evaluate each tech-prep consortium. The evaluation must include:

(1) an assessment of the consortium's performance during the past year in comparison to the goals and objectives stated in the five-year plan contained in the consortium's grant application to the board under Section 61.856;

(2) an identification of any concerns the board has regarding the consortium's performance; and

(3) recommendations for improvement by the consortium in the next year.

(b) The board shall evaluate each tech-prep consortium annually. At least once every four years, or more frequently as provided by board rule, the annual evaluation shall be conducted on-site.

(c) Not later than November 1 of each year, the board shall provide a written report to each tech-prep consortium with the results of the evaluation. The report must:

(1) contain the findings, concerns, and recommendations resulting from the evaluation required under Subsections (a) and (b);

(2) communicate to the consortium the results of the board's evaluation, specifically including the elements required by Subsection (a);

(3) identify areas in which the consortium has made improvement or should take steps to improve its performance; and

(4) identify best practices of tech-prep consortia.

(Enacted by Acts 2005, 79th Leg., ch. 441 (S.B. 1809), § 2, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 446 (S.B. 1410), § 2, effective September 1, 2011.)

SUBTITLE C
THE UNIVERSITY OF TEXAS SYSTEM

CHAPTER 67
THE UNIVERSITY OF TEXAS AT AUSTIN

Subchapter B. Powers and Duties of Board

Section

SUBCHAPTER B
POWERS AND DUTIES OF BOARD

Sec. 67.26. University Interscholastic League; Venue for Suits.

Venue for suits brought against the University Interscholastic League or for suits involving the interpretation or enforcement of the rules or regulations of the University Interscholastic League shall be in Travis County, Texas. When the litigation involves a school district located within Travis County, it shall be heard by a visiting judge.

(Enacted by Acts 1986, 69th Leg., 3rd C.S., ch. 12 (H.B. 63), § 1, effective October 2, 1986.)

CHAPTER 78
THE UNIVERSITY OF TEXAS AT BROWNSVILLE

Section

Sec. 78.10. Texas Academy of Mathematics and Science.

(a) In this section, "academy" means the Texas Academy of Mathematics and Science at The University of Texas at Brownsville.

(b) The Texas Academy of Mathematics and Science is a division of The University of Texas at Brownsville and is under the management and control of the board. The academy serves the following purposes:

(1) to provide academically gifted and highly motivated junior and senior high school students with a challenging university-level curriculum that:

(A) allows students to complete high school graduation requirements for the foundation high school program and the distinguished level of achievement under the foundation high school program and earn appropriate endorsements as provided by Section 28.025, while attending for academic credit a public institution of higher education;

(B) fosters students' knowledge of real-world mathematics and science issues and applications and teaches students to apply critical and computational thinking and problem-solving skills to those issues and problems;

(C) includes the study of English, foreign languages, social studies, mathematics, science, and technology; and

(D) offers students learning opportunities related to mathematics and science through in-depth research and field-based studies;

(2) to provide students with an awareness of mathematics and science careers and professional development opportunities through seminars, workshops, collaboration with postsecondary and university students including opportunities for summer studies, internships in foreign countries, and similar methods; and

(3) to provide students with social development activities that enrich the academic curriculum and student life, including, as determined appropriate by the academy, University Interscholastic League activities and other extracurricular activities.

(c) The academy is a coeducational institution for selected Texas high school students with an interest in and the potential to excel in mathematics and science studies. The academy shall admit only high school juniors and seniors, except that the academy may admit a student with exceptional abilities who is not yet a high school junior. The board shall set aside adequate space on the university campus in Brownsville to operate the academy and implement the purposes of this section. The academy must operate on the same fall and spring semester basis as the university. Full-time students of the academy must enroll for both the fall and spring semesters. Faculty members of the university shall teach all academic classes at the academy. A student of the academy may attend a college course offered by the university and receive college credit for that course.

(d) Except as otherwise provided by this subsection, the university administration has the same powers and duties with respect to the academy that the administration has with respect to the university. The board shall consult with the vice president for academic affairs and the dean of the School of Education and other members of the administration as the board considers necessary concerning the academy's administrative design and support, personnel and student issues, and faculty development. The board shall consult with the dean of the College of Science, Mathematics and Technology and other members of the administration as the board considers necessary concerning the academy's curriculum development, program design, and general faculty issues. The board, in consultation with university administration, shall:

(1) establish an internal management system for the academy and appoint an academy principal who serves at the will of the board and reports to the vice president for academic affairs;

(2) provide for one or more academy counselors;

(3) establish for the academy a site-based decision-making process similar to the process required by Subchapter F, Chapter 11, that provides for the participation of academy faculty, parents of academy students, and other members of the community; and

(4) establish an admissions process for the academy.

(e) The student-teacher ratio in all regular academic classes at the academy may not exceed 30 students for each classroom teacher, except that the student-teacher ratio may exceed that limit:

(1) in a program provided for the purposes prescribed by Subsection (b)(2) or another special enrichment course or in a physical education course;

(2) if the board determines that a class with a higher student-teacher ratio would contribute to the educational development of the students in the class; or

(3) if an academy class is combined with a university class with more than 30 students.

(f) The academy shall provide the university-level curriculum in a manner that is appropriate for the social, psychological, emotional, and physical development of high school juniors and seniors. The administrative and counseling personnel of the

academy shall provide continuous support to and supervision of students.

(g) For each student enrolled in the academy, the academy is entitled to allotments from the foundation school fund under Chapter 42 as if the academy were a school district without a tier one local share for purposes of Section 42.253. If in any academic year the amount of the allotments under this subsection exceeds the amount of state funds paid to the academy in the first fiscal year of the academy's operation, the commissioner of education shall set aside from the total amount of funds to which school districts are entitled under Section 42.253(c) an amount equal to the excess amount and shall distribute that amount to the academy. After deducting the amount set aside and paid to the academy by the commissioner of education under this subsection, the commissioner of education shall reduce the amount to which each district is entitled under Section 42.253(c) in the manner described by Section 42.253(h). A determination of the commissioner of education under this subsection is final and may not be appealed.

(h) The board may use any available money, enter into contracts, and accept grants, including matching grants, federal grants, and grants from a corporation or other private contributor, in establishing and operating the academy. Money spent by the academy must further the purposes of the academy under Subsection (b).

(i) The liability of the state under Chapters 101 and 104, Civil Practice and Remedies Code, is limited for the academy and employees assigned to the academy and acting on behalf of the academy to the same extent that the liability of a school district and an employee of the school district is limited under Sections 22.0511, 22.0512, and 22.052 of this code and Section 101.051, Civil Practice and Remedies Code. An employee assigned to the academy is entitled to representation by the attorney general in a civil suit based on an action or omission of the employee in the course of the employee's employment, to limits on liability, and to indemnity under Chapters 104 and 108, Civil Practice and Remedies Code.

(j) Except as otherwise provided by this section, the academy is not subject to the provisions of this code, or to the rules of the Texas Education Agency, regulating public schools.

(Enacted by Acts 2005, 79th Leg., ch. 887 (S.B. 1452), § 1, effective June 17, 2005; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 75(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 75(b) provides: "This section applies beginning with the 2014-2015 school year."

SUBTITLE D
THE TEXAS A & M UNIVERSITY SYSTEM

CHAPTER 87
OTHER ACADEMIC INSTITUTIONS IN THE TEXAS A & M UNIVERSITY SYSTEM

Subchapter F. Texas a & M International University

Section

SUBCHAPTER F
TEXAS A & M INTERNATIONAL UNIVERSITY

Sec. 87.505. Texas Academy of International Studies.

(a) In this section:

(1) "Academy" means the Texas Academy of International Studies.

(2) "Board" means the board of regents of The Texas A&M University System.

(3) "University" means Texas A&M International University.

(b) The Texas Academy of International Studies is a division of Texas A&M International University and is under the management and control of the board. The academy serves the following purposes:

(1) to provide academically gifted and highly motivated junior and senior high school students with a challenging university-level curriculum that:

(A) allows students to complete high school graduation requirements for the foundation high school program and the distinguished level of achievement under the foundation high school program and earn appropriate endorsements as provided by Section 28.025, while attending for academic credit a public institution of higher education;

(B) fosters students' knowledge of real-world international issues and problems and teaches students to apply critical thinking and problem-solving skills to those issues and problems;

(C) includes the study of English, foreign languages, social studies, anthropology, and sociology;

(D) is presented through an interdisciplinary approach that introduces and develops issues, especially issues related to international concerns, throughout the curriculum; and

(E) offers students learning opportunities related to international issues through in-depth research and field-based studies;

(2) to provide students with an awareness of international career and professional development opportunities through seminars, workshops, collaboration with postsecondary students from other countries, summer academic international studies internships in foreign countries, and similar methods; and

(3) to provide students with social development activities that enrich the academic curriculum and student life, including, as determined appropriate by the academy, University Interscholastic League activities and other extracurricular activities generally offered by public high schools.

(c) The academy is a residential, coeducational institution for selected Texas high school students with an interest and the potential to excel in international studies. The academy shall admit only high school juniors and seniors, except that the academy may admit a student with exceptional abilities who is not yet a high school junior. The board shall set aside adequate space on the university campus in Laredo to operate the academy and implement the purposes of this section. The academy must operate on the same fall and spring semester basis as the university. Full-time students of the academy must enroll for both the fall and spring semesters. Faculty members of the university shall teach all academic classes at the academy. A student of the academy may attend a college course offered by the university and receive college credit for that course.

(d) Except as otherwise provided by this subsection, the university administration has the same powers and duties with respect to the academy that the administration has with respect to the university. The board shall consult with the dean of the College of Education and other members of the administration as the board considers necessary concerning the academy's administrative design and support, personnel and student issues, and faculty development. The board shall consult with the dean of the College of Arts and Sciences and other members of the administration as the board considers necessary concerning the academy's curriculum development, program design, and general faculty issues. The board, in consultation with university administration, shall:

(1) establish an internal management system for the academy and appoint an academy principal who serves at the will of the board and reports to the university provost;

(2) provide for one or more academy counselors;

(3) establish for the academy a site-based decision-making process similar to the process required by Subchapter F, Chapter 11, that provides for the participation of academy faculty, parents of academy students, and other members of the community; and

(4) establish an admissions process for the academy.

(e) The student-teacher ratio in all regular academic classes at the academy may not exceed 30 students for each classroom teacher, except that the student-teacher ratio may exceed that limit:

(1) in a program provided for the purposes prescribed by Subsection (b)(2) or another special enrichment course or in a physical education course; or

(2) if the board determines that a class with a higher student-teacher ratio would contribute to the educational development of the students in the class.

(f) The academy shall provide the university-level curriculum in a manner that is appropriate for the social, psychological, emotional, and physical development of high school juniors and seniors. The administrative and counseling personnel of the academy shall provide continuous support to and supervision of students.

(g) For each student enrolled in the academy, the academy is entitled to allotments from the foundation school fund under Chapter 42 as if the academy were a school district without a tier one local share for purposes of Section 42.253. If in any academic year the amount of the allotments under this subsection exceeds the amount of state funds paid to the academy in the first fiscal year of the academy's operation, the commissioner of education shall set aside from the total amount of funds to which school districts are entitled under Section 42.253(c) an amount equal to the excess amount and shall distribute that amount to the academy. After deducting the amount set aside and paid to the academy by the commissioner of education under this subsection, the commissioner of education shall reduce the amount to which each district is entitled under Section 42.253(c) in the manner described by Section 42.253(h). A determination of the commissioner of education under this subsection is final and may not be appealed.

(h) The board may use any available money, enter into contracts, and accept grants, including matching grants, federal grants, and grants from a corporation or other private contributor, in establishing and operating the academy. Money spent by the academy must further the purposes of the academy prescribed by Subsection (b).

(i) The liability of the state under Chapters 101 and 104, Civil Practice and Remedies Code, is limited for the academy and employees assigned to the

academy and acting on behalf of the academy to the same extent that the liability of a school district and an employee of the school district is limited under Sections 22.0511, 22.0512, and 22.052 of this code and Section 101.051, Civil Practice and Remedies Code. An employee assigned to the academy is entitled to representation by the attorney general in a civil suit based on an action or omission of the employee in the course of the employee's employment, limits on liability, and indemnity under Chapters 104 and 108, Civil Practice and Remedies Code.

(j) Except as otherwise provided by this section, the academy is not subject to the provisions of this code, or to the rules of the Texas Education Agency, regulating public schools.

(k) [Expired pursuant to Acts 2005, 79th Leg., ch. 1339 (S.B. 151), § 5, effective August 31, 2008.]

(Enacted by Acts 2005, 79th Leg., ch. 1339 (S.B. 151), § 5, effective June 18, 2005; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 76(a), effective June 10, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 76(b) provides: "This section applies beginning with the 2014-2015 school year."

SUBTITLE E
THE TEXAS STATE UNIVERSITY SYSTEM

CHAPTER 96
INSTITUTIONS OF THE TEXAS STATE UNIVERSITY SYSTEM

Subchapter E. Lamar University and Related Institutions

Section

SUBCHAPTER E
LAMAR UNIVERSITY AND RELATED INSTITUTIONS

Sec. 96.707. Texas Academy of Leadership in the Humanities.

(a) The Texas Academy of Leadership in the Humanities is established as a two-year program at Lamar University at Beaumont for secondary school students selected under this section. The academy is under the management and control of the board of regents of the Texas State University System.

(b) The goals of the academy are to:

(1) provide gifted and talented secondary school students with accelerated academic experiences to ensure success as undergraduates with advanced standing;

(2) encourage those students to develop their full leadership potential and their ethical decision-making capabilities;

(3) provide those students with academic and social role models and mentors to motivate them to pursue academic excellence and self-direction;

(4) provide a model setting for the training of teachers in the educational materials and methods appropriate for gifted learners;

(5) encourage the cooperation of business leaders and Lamar University staff to provide practical settings and experiences for those students through independent study, shadowing, and mentorship;

(6) establish a setting to support necessary research to determine the academy's effectiveness and to disseminate results of that research; and

(7) promote the active involvement of parents in all educational programs of the academy.

(c) To be eligible for admission to the academy, a student must:

(1) complete and file with the board, on a form prescribed by the board, an application for admission and a written essay on a topic selected by the board;

(2) have successfully completed 10th grade in school;

(3) be nominated by a teacher, school administrator, parent, community leader, or another secondary school student;

(4) submit to the board two written recommendations from teachers;

(5) have a composite score on an assessment test that is equal to or greater than the equivalent of 1,000 on the Scholastic Aptitude Test;

(6) have a language score on an assessment test that is equal to or greater than the equivalent of 550 on the Scholastic Aptitude Test; and

(7) have complied with any other requirements adopted by the board under this subchapter.

(d) The board shall recruit minority secondary school students to apply for admission to the academy.

(e) The board shall select for admission to the academy eligible students based on additional testing required by the board and on a personal interview by a selection committee appointed by the board. If the board selects an eligible student for admission to the academy, the board shall send written notice to the student and the student's school district.

(f) The board shall establish a tuition and fee scholarship for each student who enrolls in the academy. A student who enrolls in the academy is

responsible for room, board, and book costs and must live in a residence determined by board rule.

(g) The academy courses are taught by the faculty members of Lamar University. The board may employ additional staff for the academy.

(h) The board shall provide each student enrolled in the academy with a mentor who is a faculty member at Lamar University to assist the student in completing the student's course of study in the academy.

(i) A student of the academy may attend a college course offered by Lamar University and receive college credit for that course.

(j) The board may accept gifts and grants from a public or private source for the academy.

(k) For each student enrolled in the academy, the academy is entitled to allotments from the Foundation School Program under Chapter 42 as if the academy were a school district, except that the academy has a local share applied that is equivalent to the local fund assignment of the Beaumont Independent School District.

(Enacted by Acts 1995, 74th Leg., ch. 1061 (H.B. 2313), § 7, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 25, effective September 1, 1997.)

SUBTITLE F
OTHER COLLEGES AND UNIVERSITIES

CHAPTER 105
UNIVERSITY OF NORTH TEXAS SYSTEM

Subchapter G. Texas Academy of Mathematics and Science

Section

SUBCHAPTER G
TEXAS ACADEMY OF MATHEMATICS AND SCIENCE

Sec. 105.301. Establishment; Scope.

(a) The Texas Academy of Mathematics and Science is established as a division of the University of North Texas for the following purposes:

(1) to provide an enriched school for gifted and talented high school juniors and seniors to complete their high school education and to attend college courses for credit;

(2) to identify exceptionally gifted and intelligent high school students at the junior and senior levels and offer them a challenging education to maximize their development;

(3) to provide a rigorous academic program emphasizing mathematics and science, but also including a strong and varied humanities curriculum; and

(4) to reduce the shortage of mathematics and science professionals in this state.

(b) The academy is a residential, coeducational institution for selected Texas high school students with interest and potential in mathematics and science under the control and management of the board. Faculty members of the university shall teach all academic classes at the academy.

(c) A student of the academy may attend a college course offered by the university and receive college credit for that course.

(d) The board shall set aside adequate space on the university campus in Denton to be used for the operation of the academy and to carry out the purposes of this subchapter.

(e) The academy is not subject to the provisions of this code, or to the rules of the Texas Education Agency, regulating public schools, except that:

(1) professional employees of the academy are entitled to the limited liability of an employee under Section 22.0511, 22.0512, or 22.052;

(2) a student's attendance at the academy satisfies compulsory school attendance requirements; and

(3) for each student enrolled, the academy is entitled to allotments from the foundation school program under Chapter 42 as if the academy were a school district without a tier one local share for purposes of Section 42.253.

(f) If in any academic year the amount of the allotments under Subsection (e)(3) exceeds the amount of state funds paid to the academy under this section in the fiscal year ending August 31, 2003, the commissioner shall set aside from the total amount of funds to which school districts are entitled under Section 42.253(c) an amount equal to the excess amount and shall distribute that amount to the academy. After deducting the amount set aside and paid to the academy by the commissioner under this subsection, the commissioner shall reduce the amount to which each district is entitled under Section 42.253(c) in the manner described by Section 42.253(h). A determination of the commissioner under this section is final and may not be appealed.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec.

105.95); am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), art. 15, § 15.05, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 241 (H.B. 1363), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1197 (S.B. 930), § 6, effective September 1, 2003.)

Sec. 105.302. Supervision by Advisory Board.

(a) In operating the academy the board shall consider the advice of an advisory board composed of nine members.

(b) Each of the following shall appoint one member to serve on the advisory board:

(1) the chairman of the State Board of Education;

(2) the commissioner of higher education;

(3) the president of the Texas Association of School Administrators;

(4) the president of the Texas Association for the Gifted and Talented;

(5) the governor;

(6) the lieutenant governor; and

(7) the speaker of the Texas House of Representatives.

(c) The president of the University of North Texas shall appoint two members to the advisory board.

(d) A member of the advisory board serves for a term of six years. If reappointed, a member may serve for more than one term.

(e) A member of the advisory board may not receive compensation for the performance of duties on the advisory board, but a member is entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties from funds appropriated for the academy.

(f) The advisory board shall make recommendations to the dean of the academy concerning the following:

(1) admission criteria;

(2) extracurricular activities;

(3) programs of study;

(4) rules for the discipline of students and for the management of the academy and academy programs;

(5) a formula of admission that ensures the admission of students from the various geographical areas of the state; and

(6) acceptance of nominations for and the selection of students to be admitted to the academy.

(g) The advisory board shall conduct an annual evaluation of the programs of the academy.

(h) A rule recommended by the advisory board under Subsection (f) shall be consistent with the law and, if adopted, shall be enforced by the staff and faculty of the academy.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.96); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.011, effective September 1, 2003.)

Sec. 105.303. Program and Operation.

(a) The academy shall operate on the same fall and spring semester basis as the University of North Texas. Full-time students of the academy must be enrolled for both the fall and spring semesters.

(b) In addition to academic classes, the academy may offer short courses, workshops, seminars, weekend instructional programs, summer programs, and other innovative programs.

(c) The pupil-teacher ratio in all regular academic classes at the academy may not exceed 30 students for each classroom teacher, except that the pupil-teacher ratio may exceed that limit:

(1) in programs provided under Subsection (b), in physical education courses, or in special enrichment courses; or

(2) if the board determines that a class with more than 30 students for each classroom teacher would contribute to the educational development of the students in the class.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.97).)

Sec. 105.304. Extracurricular Activities.

The academy may offer any extracurricular activity that a public secondary school could offer. Students attending the academy may participate in all extracurricular activities sanctioned by the university interscholastic league.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.98).)

Sec. 105.305. Eligibility.

(a) Except as provided by Subsection (b), the academy shall admit only high school juniors and seniors.

(b) The academy may provide for an early admission year to allow the admission of a student who is not yet a high school junior if the abilities of the student warrant early entry.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.99).)

Sec. 105.306. Funding.

(a) The board is hereby authorized to use available funds or to enter into contracts and accept grants or matching grants for the purpose of establishing an academy of mathematics and science.

(b) Any money received by the academy shall be expended to further the functions and purposes of the academy listed in Section 105.301.

(c) This section does not prevent the board from accepting federal funds or money from any corporation or other private contributor for use in operating or providing programs to the academy.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.100).)

Sec. 105.307. Dean.

(a) The board may appoint a dean of the academy who shall serve at the pleasure of the board.

(b) The dean shall report to the provost of the University of North Texas and shall have a seat on the council of deans.

(c) The dean shall prepare an annual budget for the operation of the academy and submit the budget to the provost of the university.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.101).)

Sec. 105.308. Liability.

(a) The liability of the state under Chapters 101 and 104, Civil Practice and Remedies Code, is limited for the academy and employees assigned to the academy and acting on behalf of the academy to the same extent that the liability of a school district and an employee of the school district is limited under Sections 22.051 and 22.052 of this code and Section 101.051, Civil Practice and Remedies Code.

(b) An employee assigned to the academy is entitled to representation by the attorney general in a civil suit based on an action or omission of the employee in the course of the employee's employment, limits on liability, and indemnity under Chapters 104 and 108, Civil Practice and Remedies Code.

(Am. Acts 2001, 77th Leg., ch. 25 (S.B. 576), § 1, effective May 2, 2001 (renumbered from Sec. 105.102).)

SUBTITLE G
NON-BACCALAUREATE SYSTEM

CHAPTER 130
JUNIOR COLLEGE DISTRICTS

Subchapter A. General Provisions

Subchapter B. Independent School District or City Junior College

Subchapter C. Union, County, or Joint-County Junior Colleges

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 130.001. Supervision by Coordinating Board, Texas College and University

System.

(a) The Coordinating Board, Texas College and University System, referred to as the coordinating board, shall exercise general control of the public junior colleges of Texas.

(b) The coordinating board shall have the responsibility for adopting policies, enacting regulations, and establishing general rules necessary for carrying out the duties with respect to public junior colleges as prescribed by the legislature, and with the advice and assistance of the commissioner of higher education, shall have authority to:

(1) authorize the creation of public junior college districts as provided in the statutes, giving particular attention to the need for a public junior college in the proposed district and the ability of the district to provide adequate local financial support;

(2) dissolve any public junior college district which has failed to establish and maintain a junior college within three years from the date of its authorization;

(3) adopt standards for the operation of public junior colleges and prescribe the rules and regulations for such colleges;

(4) require of each public junior college such reports as deemed necessary in accordance with the coordinating board's rules and regulations; and

(5) establish advisory commissions composed of representatives of public junior colleges and other citizens of the state to provide advice and counsel to the coordinating board with respect to public junior colleges.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.001).)

Sec. 130.0011. Public Junior Colleges; Role and Mission.

Texas public junior colleges shall be two-year institutions primarily serving their local taxing districts and service areas in Texas and offering vocational, technical, and academic courses for certification or associate degrees. Continuing education, remedial and compensatory education consistent with open-admission policies, and programs of counseling and guidance shall be provided. Each institution shall insist on excellence in all academic areas—instruction, research, and public service. Faculty research, using the facilities provided for and consistent with the primary function of each institution, is encouraged. Funding for research should be from private sources, competitively acquired sources, local taxes, and other local revenue. (Enacted by Acts 1987, 70th Leg., ch. 823 (H.B. 2181), art. 2, § 2.01, effective June 20, 1987.)

Sec. 130.0012. Baccalaureate Degree Programs.

(a) The Texas Higher Education Coordinating Board shall authorize public junior colleges to offer baccalaureate degree programs in the fields of applied science and applied technology under this section. Offering a baccalaureate degree program under this section does not otherwise alter the role and mission of a public junior college.

(b) The coordinating board shall authorize baccalaureate degree programs at each public junior college that previously participated in a pilot project to offer baccalaureate degree programs.

(c) A public junior college offering a baccalaureate degree program under this section must meet all applicable accreditation requirements of the Commission on Colleges of the Southern Association of Colleges and Schools.

(d) A public junior college offering a baccalaureate degree program under this section may not offer more than five baccalaureate degree programs at any time. The degree programs are subject to the continuing approval of the coordinating board.

(e) In determining what baccalaureate degree programs are to be offered, the coordinating board shall consider:

(1) the need for the degree programs in the region served by the junior college;

(2) how those degree programs would complement the other programs and course offerings of the junior college;

(3) whether those degree programs would unnecessarily duplicate the degree programs offered by other institutions of higher education; and

(4) the ability of the junior college to support the program and the adequacy of the junior college's facilities, faculty, administration, libraries, and other resources.

(f) Each public junior college that offers a baccalaureate degree program under this section must enter into an articulation agreement for the first five years of the program with one or more general academic teaching institutions to ensure that students enrolled in the degree program have an opportunity to complete the degree if the public junior college ceases to offer the degree program. The coordinating board may require a general academic teaching institution that offers a comparable degree program to enter into an articulation agreement with the public junior college as provided by this subsection.

(g) In its recommendations to the legislature relating to state funding for public junior colleges, the

coordinating board shall recommend that a public junior college receive substantially the same state support for junior-level and senior-level courses offered under this section as that provided to a general academic teaching institution for substantially similar courses. In determining the contact hours attributable to students enrolled in a junior-level or senior-level course offered under this section used to determine a public junior college's proportionate share of state appropriations under Section 130.003, the coordinating board shall weigh those contact hours as necessary to provide the junior college the appropriate level of state support to the extent state funds for those courses are included in the appropriations. This subsection does not prohibit the legislature from directly appropriating state funds to support junior-level and senior-level courses offered under this section.

(h) Each public junior college offering a baccalaureate degree program under this section shall prepare a biennial report on the operation and effectiveness of the junior college's baccalaureate degree programs and shall deliver a copy of the report to the coordinating board in the form and at the time determined by the coordinating board.

(i) [Deleted by Acts 2007, 80th Leg., ch. 1397 (H.B. 2198), § 1, effective September 1, 2007.]

(j) The coordinating board shall prescribe procedures to ensure that each public junior college that offers a degree program under this section informs each student who enrolls in the degree program of the articulation agreement entered into under Subsection (f) for the student's degree program.

(k) [Expired pursuant to Acts 2009, 81st Leg., ch. 674 (H.B. 2425), § 3, effective January 1, 2011.]

(Enacted by Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 50, effective September 1, 2003; enacted by Acts 2003, 78th Leg., ch. 1201 (S.B. 976), § 4, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1397 (H.B. 2198), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 674 (H.B. 2425), § 3, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 4.013, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1155 (S.B. 215), § 60, effective September 1, 2013.)

Sec. 130.0013. [Expires September 1, 2015] Study and Report; Baccalaureate Degree Programs Authority.

(a) The Texas Higher Education Coordinating Board shall, using existing funds, conduct a study of regional workforce needs in this state to determine the regions of the state that would benefit from the authorization of baccalaureate degree programs in the field of nursing and in the field of applied sciences at public junior colleges serving the region and appropriate metrics for determining whether a public junior college should offer those degree programs. In conducting its study, the coordinating board shall consult with at least one representative of each of the following:

(1) four-year institutions of higher education;

(2) two-year institutions of higher education;

(3) regional businesses;

(4) professional associations; and

(5) any other entity the commissioner of higher education considers appropriate.

(b) Not later than August 1, 2014, the coordinating board shall submit to each legislative standing committee with primary jurisdiction over higher education the results of its study under this section and recommendations for legislative or other action.

(c) This section expires September 1, 2015.

(Enacted by Acts 2013, 83rd Leg., ch. 1164 (S.B. 414), § 1, effective June 14, 2013.)

Sec. 130.002. Extent of State and Local Control.

All authority not vested by this chapter or by other laws of the state in the coordinating board or in the Central Education Agency is reserved and retained locally in each of the respective public junior college districts or in the governing boards of such junior colleges as provided in the laws applicable.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.002).)

Sec. 130.0021. Conveyance of Certain Real Property.

A public junior college or a public junior college district may donate, exchange, convey, sell, or lease land, improvements, or any other interest in any real property for less than the fair market value of the real property interest if the donation, conveyance, exchange, sale, or lease is being made to a university system and the governing board of the public junior college or the public junior college district also finds that the donation, conveyance, exchange, sale, or lease of the interest promotes a public purpose related to higher education within the service area of the public junior college or the public junior college district.

(Enacted by Acts 1999, 76th Leg., ch. 296 (S.B. 1289), § 5, effective May 29, 1999.)

Sec. 130.003. State Appropriation for Public Junior Colleges.

(a) There shall be appropriated biennially from money in the state treasury not otherwise appropri-

ated an amount sufficient to supplement local funds for the proper support, maintenance, operation, and improvement of those public junior colleges of Texas that meet the standards prescribed by this chapter. The sum shall be allocated on the basis of contact hours within categories developed, reviewed, and updated by the coordinating board.

(b) To be eligible for and to receive a proportionate share of the appropriation, a public junior college must:

(1) be certified as a public junior college as prescribed in Section 61.063;

(2) offer a minimum of 24 semester hours of vocational and/or terminal courses;

(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public junior colleges;

(4) collect, from each full-time and part-time student enrolled, matriculation and other session fees in the amounts required by law or in the amounts set by the governing board of the junior college district as authorized by this title;

(5) grant, when properly applied for, the scholarships and tuition exemptions provided for in this code; and

(6) for a public junior college established on or after September 1, 1986, levy and collect ad valorem taxes as provided by law for the operation and maintenance of the public junior college.

(c) All funds allocated under the provisions of this code, with the exception of those necessary for paying the costs of audits as provided, shall be used exclusively for the purpose of paying salaries of the instructional and administrative forces of the several institutions and the purchase of supplies and materials for instructional purposes.

(d) Only those colleges which have been certified as prescribed in Section 61.063 of this code shall be eligible for and may receive any appropriation made by the legislature to public junior colleges.

(e) The purpose of each public community college shall be to provide:

(1) technical programs up to two years in length leading to associate degrees or certificates;

(2) vocational programs leading directly to employment in semi-skilled and skilled occupations;

(3) freshman and sophomore courses in arts and sciences;

(4) continuing adult education programs for occupational or cultural upgrading;

(5) compensatory education programs designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students;

(6) a continuing program of counseling and guidance designed to assist students in achieving their individual educational goals;

(7) work force development programs designed to meet local and statewide needs;

(8) adult literacy and other basic skills programs for adults; and

(9) such other purposes as may be prescribed by the Texas Higher Education Coordinating Board or local governing boards in the best interest of post-secondary education in Texas.

(f) This section does not alter, amend, or repeal Section 54.060 of this code.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.003); am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 2, § 30, effective September 1, 1971; am. Acts 1973, 63rd Leg., ch. 51 (H.B. 533), § 7, effective August 27, 1973; am. Acts 1973, 63rd Leg., ch. 549 (S.B. 358), § 1, effective June 15, 1973; am. Acts 1977, 65th Leg., ch. 550 (H.B. 243), § 1, effective August 29, 1977; am. Acts 1985, 69th Leg., ch. 705 (H.B. 978), § 1, effective September 1, 1985; am. Acts 1985, 69th Leg., ch. 708 (H.B. 1147), § 16, effective August 26, 1985; am. Acts 1987, 70th Leg., ch. 823 (H.B. 2181), art. 3, § 3.04, effective June 20, 1987; am. Acts 1993, 73rd Leg., ch. 262 (S.B. 330), § 1, effective May 23, 1993; am. Acts 1997, 75th Leg., ch. 1383 (H.B. 1548), § 1, effective June 20, 1997; am. Acts 2005, 79th Leg., ch. 805 (S.B. 532), § 1, effective June 17, 2005.)

Sec. 130.0031. Transfers: When Made.

(a) In this section:

(1) "Category 1 junior college" means a junior college having not more than 2,500 students in fall head count enrollment for the previous fiscal year and not more than $300,000 of local taxes collected, excluding taxes for debt service, in the previous fiscal year.

(2) "Category 2 junior college" means a junior college having more than 2,500 students in fall head count enrollment for the previous fiscal year or more than $300,000 of local taxes collected, excluding taxes for debt service, in the previous fiscal year.

(b) Money appropriated for payment to junior colleges under the authority of Section 130.003 of this code shall be paid to each eligible category 1 junior college out of the public junior college reimbursement fund as follows:

(1) 24 percent of the yearly entitlement of the junior college shall be paid in two equal installments to be made on or before the 25th day of September and October; and

(2) 76 percent of the yearly entitlement of the junior college shall be paid in eight equal install-

ments to be made on or before the 25th day of November, December, January, February, March, April, May, and June.

(c) Money appropriated for payment to junior colleges under the authority of Section 130.003 of this code shall be paid to each eligible category 2 junior college out of the public junior college reimbursement fund as follows:

(1) 24 percent of the yearly entitlement of the junior college shall be paid in two equal installments to be made on or before the 25th day of September and October; and

(2) 76 percent of the yearly entitlement of the junior college shall be paid in eight equal installments to be made on or before the 25th day of November, December, March, April, May, June, July, and August.

(d) The amount of any installment required by this section may be modified to provide the junior college with the proper amount to which the junior college may be entitled by law and to correct errors in the allocation or distribution of funds. If an installment under this section is required to be equal to other installments, the amount of other installments may be adjusted to provide for that equality. A payment under this section is not invalid because it is not equal to other installments.

(Enacted by Acts 1984, 68th Leg., 2nd C.S., ch. 10 (S.B. 27), art. 1, § 3, effective September 1, 1984.)

Sec. 130.00311. Methods of Inclusion or Participation in Junior College District.

(a) The following are methods that may be used to be included in or to participate in a junior college district:

(1) the registered voters of territory that is not located in a junior college district may petition to join an existing junior college district or to establish a new junior college district under the other provisions of this chapter; or

(2) a junior college district may enter into an agreement with an entity or community under Section 130.0081 to provide services to the entity or community.

(b) If a political subdivision or part of a political subdivision is not located in a junior college district or has not entered into an agreement under Section 130.0081, a person who resides in that territory and who is a student of a junior college district shall be charged tuition and fees at the rate established under Section 130.0032(d).

(Enacted by Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 1, effective June 18, 2005.)

Sec. 130.0032. Tuition for Students Residing Outside of District.

(a) The governing board of a public junior college district may allow a person who resides outside the district and who owns property subject to ad valorem taxation by the district, or a dependent of the person, to pay tuition at the rate applicable to a student who resides in the district.

(b) The governing board of a public junior college district may allow a person who resides outside the district and in the taxing district of a contiguous public junior college district to pay tuition and fees at the rate applicable to a student who resides in the district.

(b-1) The governing board of a public junior college district that includes at least six campuses shall allow a person who resides outside the district and in the taxing district of a contiguous public junior college district to pay tuition and fees at the rate applicable to a student who resides in the district for enrollment at a campus located within an area in which the person resides that, as of January 1, 2013, is designated as a super neighborhood by a municipality with a population greater than two million.

(c) The governing board of a public junior college district may allow a person who resides outside the district to pay tuition and fees at a rate less than the rate applicable to other persons residing outside the district, but not less than the rate applicable to a student who resides in the district, if the person:

(1) resides within the service area of the district;

(2) does not reside in an independent school district that meets the criteria of the coordinating board for the establishment of a junior college district under Section 130.013; and

(3) demonstrates financial need in accordance with rules adopted by the Texas Higher Education Coordinating Board.

(d) The governing board of a junior college district shall establish the rate of tuition and fees charged to a student who resides outside the district by considering factors such as:

(1) the sufficiency of the rate to promote taxpayer equity by encouraging areas benefiting from the educational services of the district to participate in financing the education of students from that area;

(2) the extent to which the rate will ensure that the cost to the district of providing educational services to a student who resides outside the district is not financed disproportionately by the taxpayers residing within the district; and

(3) the rate that would generate tuition and fees equal to the total amount of tuition and fees charged to a similarly situated student who resides in the district plus an amount per credit hour determined by dividing the total amount of ad valorem taxes imposed by the district in the tax year preceding the year in which the academic year begins by the total number of credit hours for which the students who were residents of the district enrolled in the district in the preceding academic year.

(Enacted by Acts 1997, 75th Leg., ch. 1383 (H.B. 1548), § 2, effective June 20, 1997; am. Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 2, effective June 18, 2005; am. Acts 2013, 83rd Leg., ch. 1005 (H.B. 2448), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2005, 79th Leg., Ch. 1100 (H.B. 2221), § 10 provides: "The change in law made by this Act to Section 130.0032, Education Code, applies beginning with tuition charged for the 2005-2006 academic year."

Sec. 130.0033. Pilot Project: Reduced Tuition for Certain Courses.

(a) The Texas Higher Education Coordinating Board shall establish a pilot project to measure the impact of reducing tuition for junior college courses offered at times of low enrollment demand in order to promote greater access to higher education and more efficient use of junior college facilities and resources. The coordinating board shall select a reasonable number of public junior colleges to participate in the pilot project.

(b) The governing board of a public junior college selected to participate in the pilot project may charge tuition for a course or courses at a rate established by the governing board that is less than the rate otherwise required by Section 54.051 or other law if the governing board finds that the reduced tuition rate is reasonably necessary to enable the junior college to make efficient use of its facilities or faculty. The finding must be stated in the order or resolution establishing the reduced tuition rate.

(c) Charging tuition at a reduced rate under this section does not affect the right of the public junior college to a proportionate share of state appropriations under Section 130.003 for the contact hours attributable to students paying tuition at the reduced rate.

(d), (e) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(23), effective June 17, 2011.]

(Enacted by Acts 2001, 77th Leg., ch. 318 (H.B. 1465), § 1, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(23), effective June 17, 2011.)

Sec. 130.0034. Tuition for Repeated Courses.

(a) The governing board of a public junior college district may charge a student a higher rate of tuition than the tuition that would otherwise be charged for a course in which the student enrolls if:

(1) the student has previously enrolled in the same course or a course of substantially the same content and level two or more times; and

(2) the student's enrollment in the course is not included in the contact hours used to determine the junior college's proportionate share of state appropriations under Section 130.003.

(b) This section does not apply to a non-degree-credit developmental course.

(c) The total amount of tuition charged to the student under this section for the repeated course may not exceed the full cost of instruction for the course with respect to the student.

(Enacted by Acts 2005, 79th Leg., ch. 1220 (H.B. 994), § 1, effective June 18, 2005.)

Sec. 130.0035. Performance Reports.

(a) As soon as practicable after the end of each academic year, a junior college district shall prepare an annual performance report for that academic year. The report shall be prepared in a form that would enable any interested person, including a prospective student, to understand the information in the report and to compare the information to similar information for other junior college districts. A junior college district shall make the report available to any person on request.

(b) The report must include the following information for the junior college district for the academic year covered by the report:

(1) the rate at which students completed courses attempted;

(2) the number and types of degrees and certificates awarded;

(3) the percentage of graduates who passed licensing exams related to the degree or certificate awarded, to the extent the information can be determined;

(4) the number of students or graduates who transfer to or are admitted to a public university;

(5) the passing rates for students required to be tested under Section 51.306;

(6) the percentage of students enrolled who are academically disadvantaged;

(7) the percentage of students enrolled who are economically disadvantaged;

(8) the racial and ethnic composition of the district's student body; and

(9) the percentage of student contact hours taught by full-time faculty.

(c) The Legislative Budget Board shall be responsible for recommending standards for reports under this section, in consultation with junior college districts, the Texas Higher Education Coordinating Board, and the governor's office of budget and planning.

(d) [Expired pursuant to Acts 1997, 75th Leg., ch. 978 (H.B. 2517), § 1, effective January 1, 2000.]

(Enacted by Acts 1997, 75th Leg., ch. 978 (H.B. 2517), § 1, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 785, effective September 1, 2003.)

Sec. 130.0036. Report on Student Enrollment Status.

(a) In the form and manner and at the times required by the Texas Higher Education Coordinating Board, a junior college district shall report to the coordinating board on the enrollment status of students of the junior college district. The report must include information on:

(1) students seeking a degree;

(2) students seeking a certificate;

(3) students enrolled in workforce continuing education courses;

(4) students enrolled in college credit courses who are not seeking a degree or certificate;

(5) students enrolled in courses for credit to transfer to another institution;

(6) students enrolled in developmental education courses by course level; and

(7) enrollment in other categories as specified by the coordinating board.

(b) In administering this section, the coordinating board shall attempt to avoid duplicating other reporting requirements applicable to junior college districts. The coordinating board shall consult with the governing boards of the state's junior college districts in determining the form, manner, and times of reports under this section.

(Enacted by Acts 1999, 76th Leg., ch. 1320 (S.B. 1853), § 1, effective August 30, 1999.)

Sec. 130.004. Authorized Types of Public Junior Colleges.

(a) By complying with the provisions of the appropriate following sections of this chapter a public junior college and/or district of any one of the following classifications may be established:

(1) an independent school district junior college;

(2) a city junior college;

(3) a union junior college;

(4) a county junior college;

(5) a joint-county junior college; and

(6) a public junior college as a part or division of a regional college district.

(b) As used in this chapter, the two general authorized types of junior colleges are:

(1) public junior colleges, which must consist of freshman and sophomore college work taught separately or in conjunction with the junior and senior years of high school and the course of study of such work must be submitted to and approved before being offered by the Coordinating Board, Texas College and University System; and

(2) a junior college division of a regional college, as that type of institution is defined in Subchapter F of this chapter, which operates under the laws applicable to public junior colleges in Texas.

(c) All junior college districts, whether established, organized, and/or created, or attempted to be established, organized, and/or created, by vote of the people residing in those districts, or by action of the county school boards, or by action of the county judge, or by action of the commissioners courts, or by action of state educational officers or agencies, or by a combination of any two or more of the same, which districts have previously been recognized by either state or county authorities as junior college districts, are hereby validated in all respects as though they had been duly and legally established in the first instance. Without in any way limiting the generalization of the provisions above,

(1) all additions of territory to or detachments of territory from such junior college districts are hereby in all things validated, whether the same were accomplished or attempted to be accomplished by action of the county school boards, or by action of the county judge, or by action of the commissioners court, or by action of state educational officers or agencies, or by vote of the people residing in such territory, or by a combination of any two or more of the same;

(2) the boundary lines of all such junior college districts are hereby in all things validated; and

(3) all acts of the governing boards of such junior college districts ordering an election or elections, declaring the results of such elections, levying, attempting, or purporting to levy taxes for and on behalf of such districts, and all bonds issued and now outstanding, and all bonds previously voted but not issued, and all tax elections, bond elections, and bond assumption elections are hereby in all things validated; all revenue bonds issued and outstanding and all revenue bonds authorized but not yet issued for and on behalf of such districts are hereby in all things validated.

(d) Subsection (c) of this section shall not apply to any district which has previously been declared invalid by a court of competent jurisdiction of Texas,

nor shall it apply to any district which is now involved in litigation in any district court of Texas, the court of civil appeals, or the Supreme Court of Texas, in which litigation the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such districts is attacked, or to any district involved in proceedings now pending before the coordinating board in which proceedings the validity of the organization or creation of such district or of the addition of territory to or detachment of territory from such district is attacked.

(e) The establishment of any new public junior college campus within an existing junior college district or the establishment of any new junior college district shall be approved by the Legislative Budget Board if the establishment occurs during a time when the legislature is not in session. The legislature shall approve the establishment of any new public junior college campus within an existing junior college district or the establishment of any new junior college district if proposed during or within three months prior to a legislative session.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.004); am. Acts 1995, 74th Leg., ch. 971 (S.B. 397), § 2, effective September 1, 1995.)

Sec. 130.005. Change of Name to Community College District.

(a) The legislature hereby declares that the purpose of this section is to recognize that junior colleges are in fact comprehensive community colleges which serve their communities not only through university-parallel programs but also by means of occupational programs and other programs of community interest and need.

(b) The board of trustees of any junior college district may by resolution duly adopted change the name of such district by substituting the word "community" for the word "junior" in such name. A copy of such resolution duly certified by the secretary of the board of trustees shall be filed with the Coordinating Board, Texas College and University System. Such change in name shall become effective upon the filing of such resolution with the said coordinating board. Thereafter all references to such district in all official actions, communications and records shall be by use of such new name.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 2, § 13, effective September 1, 1971; am. Acts 1973, 63rd Leg., ch. 75 (S.B. 218), § 1, effective May 7, 1973.)

Sec. 130.0051. Other Change of Name by Junior College District.

(a) The board of trustees of a junior college district by resolution may change the name of the district or a college within the district by eliminating the words "community" or "junior" from the name of the district or college, unless the change would cause the district or college to have the same or substantially the same name as an existing district, college, or other public or private institution of higher education in this state.

(b) The board of trustees shall file with the Texas Higher Education Coordinating Board a copy of a resolution adopted under Subsection (a) that is certified by the secretary of the board of trustees. The name change is effective on the date the resolution is filed with the coordinating board. After a name change is filed, the college or district shall use the new name in all official actions, communications, or records.

(Enacted by Acts 1997, 75th Leg., ch. 570 (H.B. 1460), § 1, effective September 1, 1997.)

Sec. 130.006. Course Held Outside District.

(a) The trustees of an independent school district located in a county contiguous to, but not a part of, a community college district and the governing board of the community college district may enter into a contract providing for the community college to hold college courses in the school district's facilities.

(b) The contract must be approved by resolution of the governing boards of the community college district and the school district.

(c) For purposes of state funding, a course held in the school district facilities is considered to be a course held in the community college district if the course:

(1) has been approved by a regional higher education council recognized by rule of the coordinating board and in which the district has been designated a member by the coordinating board; and

(2) is approved by the coordinating board as an out-of-district course for the community college district.

(d) Any statutory or regulatory requirement of local support of a community college program is satisfied by the school district providing its facilities without charge to the community college if the total community college enrollment in the school district does not exceed 1,000 full-time students, or the equivalent.

(e) Either party may terminate a contract under this section by giving the other party at least one year's written notice.

(Enacted by Acts 1983, 68th Leg., ch. 318 (H.B. 100), § 1, effective August 29, 1983.)

Sec. 130.007. Endowment Fund.

(a) The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees.

(b) The board of trustees may deposit local funds collected by the board to the credit of the endowment fund.

(c) The board of trustees may accept gifts and grants from any public or private source for the endowment fund.

(d) The endowment fund consists of local funds deposited to the credit of the endowment fund, gifts, grants, and income from investing the endowment fund.

(e) The board of trustees may invest the endowment fund in securities, bonds, and other investments that the board considers prudent. In making investments under this section, the board shall exercise the judgment and care under the circumstances then prevailing that a person of ordinary prudence, discretion, and intelligence exercises in the management of the person's own affairs.

(f) The board may not spend any money deposited in the endowment fund as local funds, gifts, or grants but may spend any income from investing the endowment fund for the operation or maintenance of the junior college.

(Enacted by Acts 1993, 73rd Leg., ch. 391 (S.B. 142), § 1, effective June 2, 1993.)

Sec. 130.008. Courses for Joint High School and Junior College Credit.

(a) Under an agreement with a school district or, in the case of a private high school, with the organization or other person that operates the high school, a public junior college may offer a course in which a student attending a high school operated in this state by the school district, organization, or other person may enroll and for which the student may simultaneously receive both:

(1) course credit toward the student's high school academic requirements; and

(2) course credit as a student of the junior college, if the student has been admitted to the junior college or becomes eligible to enroll in and is subsequently admitted to the junior college.

(b) The junior college may waive all or part of the tuition and fees for a high school student enrolled in a course for which the student may receive joint credit under this section.

(c) The contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit under this section, excluding a course for which the student attending high school may receive course credit toward the physical education curriculum requirement under Section 28.002(a)(2)(C), shall be included in the contact hours used to determine the junior college's proportionate share of the state money appropriated and distributed to public junior colleges under Sections 130.003 and 130.0031, even if the junior college waives all or part of the tuition or fees for the student under Subsection (b).

(d) A public junior college may enter into an agreement with a school district, organization, or other person that operates a high school to offer a course as provided by this section regardless of whether the high school is located within the service area of the junior college district.

(d-1) [Repealed by Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(6), effective September 1, 2013.]

(e) In admitting or enrolling high school students in a course offered for joint high school and junior college credit under Subsection (a), a public junior college must apply the same criteria and conditions to each student wishing to enroll in the course without regard to whether the student attends a public school or a private or parochial school, including a home school. For purposes of this section, a student who attends a school that is not formally organized as a high school and is at least 16 years of age is considered to be attending a high school.

(f) Except as provided by this section, a student may not enroll in more than three courses under this section at a junior college if the junior college does not have a service area that includes the student's high school. A student enrolled at an early college high school may enroll in a greater number of courses to the extent approved by the commissioner of education.

(Enacted by Acts 1995, 74th Leg., ch. 195 (H.B. 1336), § 1, effective May 23, 1995; am. Acts 1999, 76th Leg., ch. 297 (S.B. 1352), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 908 (S.B. 82), § 1, effective August 27, 2001; am. Acts 2003, 78th Leg., ch. 220 (H.B. 415), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1070 (H.B. 1621), § 1, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 453 (H.B. 2480), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 385 (S.B. 419), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 77(a), effective June 10, 2013; am. Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 78(a)(6), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 385 (S.B. 419), § 2 provides: "This Act applies beginning with funding for the 2011 fall semester."

Acts 2013, 83rd Leg., ch. 211 (H.B. 5), § 77(b) provides: "This section applies beginning with the 2013—2014 school year."

Sec. 130.0081. Agreement with Junior College District.

(a) A junior college district may enter into an agreement with any person, including an employer, political subdivision, or other entity, to provide educational services. The agreement must provide for the entity to cover at least any cost to the district of providing the services that exceeds the amount of tuition and fees that would be charged to a student who resides in the district and is enrolled in a substantially similar course.

(b) Students who are enrolled in a course under the agreement are entitled to pay tuition and fees at the rate applicable to a student who resides in the district.

(Enacted by Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 3, effective June 18, 2005.)

Sec. 130.009. Uniform Dates for Adding or Dropping Course.

(a) The Texas Higher Education Coordinating Board by rule shall establish uniform final dates, counted from the first class day of an academic semester or term, for adding or dropping a course conducted by a public junior college. The uniform dates apply to each public junior college in this state.

(b) A student may not enroll in a course after a uniform final date for adding a course established under this section. A student is not entitled to a refund of any tuition or fees for a course that the student drops after a uniform final date for dropping a course established under this section.

(c) The rules may provide for different dates for academic semesters or terms of different durations.

(d) [Expired pursuant to Acts 1995, 74th Leg., ch. 459 (H.B. 2640), § 1, September 1, 1996.]

(Enacted by Acts 1995, 74th Leg., ch. 459 (H.B. 2640), § 1, effective June 9, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), art. 31, § 31.01(26), effective September 1, 1997 (renumbered from Sec. 130.008).)

Sec. 130.010. Purchasing Contracts.

(a) The provisions of Subchapter B, Chapter 44, relating to the purchase of goods and services under contract by a school district apply to the purchase of goods and services under contract by a junior college district.

(b) To the extent of any conflict, the provisions of Subchapter B, Chapter 44, prevail over any other law relating to the purchase of goods and services by a junior college district.

(Enacted by Acts 1999, 76th Leg., ch. 1383 (H.B. 1542), § 1, effective June 19, 1999.)

Sec. 130.0101. Acquisition of Library Materials.

(a) In this section, "library goods and services" means:

(1) serial and journal subscriptions, including electronic databases, digital content, and information products;

(2) other library materials and resources, including books, e-books, and media not available under a statewide contract and papers;

(3) library services, including periodical jobber and binding services not available under a statewide contract;

(4) equipment and supplies specific to the storage and access of library content; and

(5) library or resource-sharing programs operated by the Texas State Library and Archives Commission.

(b) Notwithstanding any other law governing purchasing by a junior college district, including Section 130.010 or Subchapter B, Chapter 44, a junior college district may purchase, license, or otherwise acquire library goods and services in any manner authorized by law for the purchase, license, or acquisition of library goods and services by a public senior college or university, as defined by Section 61.003.

(Enacted by Acts 1999, 76th Leg., ch. 1549 (S.B. 1363), § 1, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 21, § 21.001(26), effective September 1, 2001 (renumbered from Sec. 130.010) am. Acts 2009, 81st Leg., ch. 336 (H.B. 962), § 2, effective June 19, 2009.)

Sec. 130.0102. Mexican American Studies Program or Course Work.

The governing board of a public junior college district located in one or more counties with a substantial and growing Mexican American population shall evaluate the demand for and feasibility of establishing a Mexican American studies program or other course work in Mexican American studies at one or more junior colleges in the district. With approval of the Texas Higher Education Coordinating Board, the governing board may establish a Mexican American studies program or other course work in Mexican American studies at any of those colleges if the governing board determines that such a program or course work is desirable and feasible.

(Enacted by Acts 2003, 78th Leg., ch. 820 (S.B. 286), § 51, effective September 1, 2003.)

Sec. 130.0103. Dual Usage Educational Complex.

(a) The board of trustees of a junior college district may establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and other participating entities. The board of trustees may enter into a cooperative agreement governing the operation and use of the complex with the governing bodies of one or more of the following entities:

(1) a county, municipality, or school district located in whole or in part in the service area of the junior college district; or

(2) another institution of higher education with a campus or other educational facility located in the same state uniform service region as adopted by the coordinating board.

(b) The junior college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the district and the other participating entities under the terms of the cooperative agreement.

(Enacted by Acts 2005, 79th Leg., ch. 968 (H.B. 1737), § 1, effective June 18, 2005.)

SUBCHAPTER B
INDEPENDENT SCHOOL DISTRICT OR CITY JUNIOR COLLEGE

Sec. 130.011. Establishment of Independent School District or City Junior College.

(a) An independent school district junior college may be established by any independent school district or city which has assumed control of its schools meeting the requirements set out in Section 130.032 of this code and subject to the findings of the coordinating board under Section 130.013.

(b) Any such college district established and maintained as provided in this chapter shall be known as a junior college district.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.011); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 1, effective June 7, 1985.)

Sec. 130.012. Petition to Establish.

(a) Whenever it is proposed to establish a junior college district in any type of unit authorized by Section 130.011 of this code, a petition praying for an election, signed by not less than 10 percent of the qualified electors of the proposed district shall be presented to the school board of trustees of the district or city, which shall:

(1) pass upon the legality and genuineness of the petition; and

(2) forward the petition, if approved, to the coordinating board.

(b) Any petition authorized by this section shall also incorporate a request for the proper authorities, in the event an election is ordered for the creation of such district, to submit at the same election the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.012); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 1, effective June 7, 1985.)

Sec. 130.013. Order to Establish.

It shall be the duty of the coordinating board with the advice of the commissioner of higher education to determine whether or not the conditions set forth in Sections 130.012 and 130.032 of this code have been complied with, and also whether, considering the geographic location of colleges already established, it is feasible and desirable to establish the proposed junior college district. In the exercise of this authority the board shall develop and publish criteria to be used as a basis for determining the need for a public junior college in the proposed district. The board shall determine whether programs in a proposed institution would create unnecessary duplication or seriously harm programs in existing community college districts. It shall be the duty of the coordinating board to consider the needs and the welfare of the state as a whole, as well as the welfare of the community involved. The decision of the coordinating board shall be final and shall be transmitted through the commissioner of higher education to the local school board, along with the order of the coordinating board authorizing further procedure in the establishment of the junior college district, if the coordinating board endorses its establishment.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.013); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 1, effective June 7, 1985.)

Sec. 130.014. Election.

(a) If the coordinating board approves of the establishment of the junior college district, it shall

then be the duty of the local school board to enter an order for an election to be held in the proposed territory at the next authorized election date as provided in Article 2.01b of the Election Code, to determine whether or not such junior college district shall be created and formed and to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created. Such order shall:

(1) contain a description of the metes and bounds of the junior college district to be formed; and

(2) fix the date for the election.

(b) If a majority of the electors voting at the election shall be in favor of the creation of a junior college district, the district shall be deemed to be formed and created. The local school board shall make a canvass of the returns and declare the result of the election within 10 days after holding the election, and enter an order on the minutes of the board as to the result of the election.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.014); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 1, effective June 7, 1985.)

Sec. 130.015. Control of Independent School District or City Junior College.

A junior college established by an independent school district or city that has assumed control of schools already validated or established pursuant to the provisions of this chapter may be governed, administered, and controlled by and under the direction of the board of trustees of that independent or city school district.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.015).)

Sec. 130.016. Separate Board of Trustees in Certain Instances.

(a) A junior college established by an independent school district or city that has assumed control of schools already validated or established pursuant to the provisions of this chapter may be governed, administered, and controlled by and under the direction of a separate board of trustees, which may be placed in authority by either of the following procedures:

(1) the board of trustees of an independent school district or city school district which has the management, control, and operation of a junior college may divest itself of the management, control, and operation of that junior college so maintained and operated by the school board by appointing for the junior college district a separate board of trustees of nine members; or

(2) the board of trustees of any independent school district or city school district which has the control and management of a junior college may be divested of its control and management of that junior college by the procedure prescribed in Section 130.017 of this code.

(b) If the board of trustees of an independent school district that divests itself of the management, control, and operation of a junior college district under this section or under Section 130.017 of this code was authorized by Subsection (e) of Section 20.48 of this code to dedicate a portion of its tax levy to the junior college district before the divestment, the junior college district may levy an ad valorem tax from and after the divestment. In the first two years in which the junior college district levies an ad valorem tax, the tax rate adopted by the governing body may not exceed the rate that, if applied to the total taxable value submitted to the governing body under Section 26.04, Tax Code, would impose an amount equal to the amount of taxes of the school district dedicated to the junior college under Subsection (e) of Section 20.48 of this code in the last dedication before the divestment. In subsequent years, the tax rate of the junior college district is subject to Section 26.07, Tax Code.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.016); am. Acts 1987, 70th Leg., ch. 556 (S.B. 726), § 2, effective September 1, 1987.)

Sec. 130.017. Petition and Election to Divest School Board of Authority.

(a) On a petition signed by 10 percent of the qualified electors of the independent school district or city school district, the board of trustees within 30 days shall call an election after the petition has been duly presented on the proposition of whether the school board of trustees shall be divested of its authority as governing board of such junior college district.

(b) At the election called under Subsection (a) of this section, the board of trustees shall also include a separate proposition on whether the junior college district may levy ad valorem taxes.

(c) The board of trustees shall, within 30 days after the official canvass of the election, appoint for the junior college district a separate board of trustees as provided by this code to serve as the govern-

ing board of the junior college district if the majority of the votes in the election under this section are cast in favor of both propositions. If a majority of the votes in the election are cast against either proposition, the board may not divest its authority as the governing board of the junior college district unless both propositions are approved at a subsequent election. A subsequent election on the propositions may not be held before the first anniversary of the election date.

(d) The separate governing board of the junior college district may levy and collect taxes in accordance with Subchapter G of this chapter at the approved rate without an additional election.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.017); am. Acts 1987, 70th Leg., ch. 284 (H.B. 176), § 1, effective September 1, 1987.)

Sec. 130.018. Separate Board of Trustees—Terms, Etc.

In the event a separate board of trustees for the junior college district is appointed under either procedure set out in Section 130.016 or Section 130.017 of this code, the board of trustees, consisting of nine members, shall be organized and constituted pursuant to the provisions of Section 130.082 of this code, and be governed by the provisions thereof.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.018).)

Sec. 130.019. Separate Board of Trustees; Ad Valorem Taxes.

A board of trustees of an independent school district or city school district that has the management, control, and operation of a junior college district may not divest itself of that management, control, and operation of the junior college district under Section 130.016 of this code or have the management, control, and operation of the junior college district divested under Section 130.017 of this code, unless the junior college district has the authority to levy ad valorem taxes for the maintenance of the junior college district or acquires that authority at an election held under Section 130.017.

(Enacted by Acts 1987, 70th Leg., ch. 284 (H.B. 176), § 2, effective September 1, 1987.)

SUBCHAPTER C
UNION, COUNTY, OR JOINT-COUNTY JUNIOR COLLEGES

Sec. 130.031. Establishment of Union, County, or Joint-County Junior College.

The following types of junior colleges may be established in the following units:

(1) a union junior college district may be established by two or more contiguous independent school districts or two or more contiguous common school districts or a combination composed of one or more independent school districts with one or more common school districts of contiguous territory meeting the requirements set out in Section 130.032 of this code;

(2) a county junior college district may be established by any county meeting the requirements set out in Section 130.032 of this code; and

(3) a joint-county junior college district may be established by any combination of contiguous counties in the state meeting the requirements set out in Section 130.032 of this code.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.031).)

Sec. 130.0311. South Texas Community College [Expired].

Expired pursuant to Acts 1991, 73rd Leg., ch. 359 (S.B. 251), § 1, effective January 1, 2001.

(Enacted by Acts 1993, 73rd Leg., ch. 359 (S.B. 251), § 1, effective August 30, 1993; am. Acts 1995, 74th Leg., ch. 398 (H.B. 2314), § 1, effective August 28, 1995.)

Sec. 130.0312. Validation of Certain Acts and Proceedings.

(a) All governmental acts and proceedings of South Texas Community College not excepted from the application of this section by another provision of this section that were taken before March 1, 1997, are validated as of the dates on which they occurred.

(b) This section does not validate any governmental act or proceeding that, under the statutes of this state in effect at the time the act or proceeding occurred, constituted an offense punishable as a misdemeanor or a felony.

(c) The acts and proceedings relating to the confirmation proceedings of South Texas Community

College are validated as of the date of the confirmation or a good faith attempt at confirmation. The confirmation of South Texas Community College under Section 130.0311 may not be held invalid by the fact of any procedural defects in the election proceedings or confirmation proceedings required under Section 130.0311.

(d) All governmental acts and proceedings of the board of trustees of South Texas Community College or of an officer or employee of the college during the transfer of the property or obligations from the McAllen extension center of the Texas State Technical College System to South Texas Community College and each act or proceeding taken or conducted since the confirmation of South Texas Community College are validated as of the dates on which they occurred.

(e) This section does not apply to any matter that on the effective date of this section:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

(Enacted by Acts 1997, 75th Leg., ch. 247 (H.B. 2528), § 1, effective May 23, 1997.)

Sec. 130.032. Restrictions.

In order for any territorial unit set out in Sections 130.011 and 130.031 of this code to establish the applicable type of junior college, the proposed district must have a taxable property valuation of not less than $2.5 billion in the next preceding year and a total scholastic population of not less than 15,000 in the next preceding school year.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.032); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 2, effective June 7, 1985.)

Sec. 130.033. Petition to Establish.

(a) Whenever it is proposed to establish a junior college of any type specified in Section 130.031 of this code a petition praying for an election therefor shall be presented in the applicable manner as prescribed in Subsections (b)-(d) of this section.

(b) In the case of a union junior college district, the petition shall be signed by not fewer than 10 percent of the registered voters of each of the school districts within the territory of the proposed junior college district and shall be presented to the county school board or county school boards of the respective counties if the territory encompasses more than one county; but if there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

(c) In the case of a county junior college district, the petition shall be signed by not fewer than 10 percent of the registered voters of the proposed college district and shall be presented to the county school board of the county; but if there is no county school board, the petition shall be presented to the commissioners court of the county.

(d) In case of a joint-county junior college district, the petition shall be signed by not fewer than 10 percent of the registered voters of each of the proposed counties and shall be presented to the respective county school boards of the counties to be included in the proposed district; in case there is no county school board, the petition shall be presented to the commissioners court of the county or counties involved.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.033); am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 87, effective September 1, 1993.)

Sec. 130.034. Tax Levy.

Any petition authorized by Sections 130.011 and 130.033 of this code shall also incorporate therein a request for the proper authorities, in the event an election is ordered for the creation of such district, to submit at the same election the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.034); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 2, effective June 7, 1985.)

Sec. 130.035. Legality of Petition.

It shall be the duty of the county school board or boards or the commissioners court or courts petitioned in compliance with Section 130.033 of this code to:

(1) pass upon the legality of the petition and the genuineness of the same; and

(2) forward the petition, so approved, to the Coordinating Board, Texas College and University System.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971,

62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.035).)

Sec. 130.036. Order to Establish.

It shall be the duty of the coordinating board, with the advice of the commissioner of higher education to determine whether or not the conditions set forth in the preceding sections of this chapter have been complied with, and also whether, considering the geographic location of colleges already established, it is feasible and desirable to establish a junior college district. In the exercise of this authority the board shall develop and publish criteria to be used as a basis for determining the need for a public junior college in the proposed district. The board shall determine whether programs in a proposed institution would create unnecessary duplication or seriously harm programs in existing community college districts. It shall be the duty of the coordinating board in making its decision to consider the needs and the welfare of the state as a whole, as well as the welfare of the community involved. The decision of the coordinating board shall be transmitted through the commissioner of higher education to the county school board or boards or the commissioners court or courts, as the case may be, along with the order of the coordinating board authorizing further procedure in the establishment of the junior college district.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971; am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 2, effective June 7, 1985.)

Sec. 130.037. Calling Election; Submission of Questions.

If the coordinating board approves the establishment of the junior college district, it shall then be the duty of the commissioners court or courts to enter an order for an election to be held in the proposed territory at the next authorized election date as provided in Article 2.01b of the Election Code, to determine whether or not such junior college district be created and formed and to submit the questions of issuing bonds and levying bond taxes, and levying maintenance taxes, in the event the district is created. The order shall contain a description of the metes and bounds of the junior college district to be formed and fix the date of the election.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.037); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 2, effective June 7, 1985.)

Sec. 130.038. Election.

A majority of the electors in the proposed district, voting in the election, shall determine the question of creation of the junior college district submitted in the order, the election of the original trustees, and the questions of issuing bonds and levying taxes. A majority of the electors voting in such election shall determine such questions submitted in the order. In the case of a joint-county junior college district, or a union junior college district, the election shall, by mutual agreement of the court or courts, be held on the same day throughout the proposed district.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.038); am. Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 2, effective June 7, 1985.)

Sec. 130.039. Election Returns, Canvass, and Result.

(a) The commissioners court or courts within 10 days after holding of an election shall make a canvass of the returns and declare the results of the election.

(b) The court or courts shall enter an order on the minutes of the court or courts as to the results.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.039).)

Sec. 130.040. Board of Trustees: Union, County, or Joint-County Junior College.

A union junior college, a county junior college, or a joint-county junior college shall be governed, administered, and controlled by and under the direction of a board of trustees of seven members unless the number of members is increased as authorized by Section 130.082(d).

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.040); am. Acts 2001, 77th Leg., ch. 1324 (H.B. 2459), § 1, effective June 16, 2001.)

Sec. 130.041. Election of Trustees of Union, County, and Joint-County Junior College.

The original trustees of a union or a county junior college shall be elected at large from the junior college district by the qualified voters of the district under the rules and regulations provided for in Section 130.042 of this code.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.041).)

Sec. 130.042. Original Board.

(a) The original trustees shall be elected at the same election at which the creation of the district is determined.

(b) Any candidate desiring to be voted upon as a first trustee shall present a petition to the commissioners court or courts within three days before the order authorizing the election is issued by the commissioners court or courts, and shall accompany his petition with a petition signed by not less than two percent of the qualified voters in the district, requesting that his name be placed on the ticket as a candidate for trustee.

(c) The seven candidates for junior college trustee receiving the highest number of votes at the election shall be declared trustees of the district.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.042).)

Sec. 130.043. Organization.

After the election of the original trustees, the board of trustees shall be organized and constituted, pursuant to the provisions of Section 130.082 of this code and be governed by the provisions thereof.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.043).)

Sec. 130.044. Election of Trustees by the Position Method.

(a) The board of trustees of a district may, by a majority vote of the trustees, if a quorum is present and voting, adopt a numbered position system of electing members to the board.

(b) If the board adopts a numbered position system, candidates are voted on and elected separately for positions on the board according to the number of the position to which they seek election. The official ballots shall contain:

(1) the phrase "Official Ballot for the Purpose of Electing Trustees";

(2) the name of the junior college district;

(3) the number of each position to be filled; and

(4) the list of candidates under the position to which they seek election.

(c) Within 10 days from the date of adoption of the numbered position system, the trustees shall determine by lot which position each will hold on the board. The members in Class 1 shall draw for positions one and two; the members in Class 2 shall draw for positions three and four; and the members in Class 3 shall draw for positions five, six, and seven.

(d) A person desiring election to a numbered position on the board must, not later than 5 p.m. of the 45th day before the date of the election, file with the board of trustees a written application, designating the number of the position on the board of trustees for which he desires to become a candidate, and requesting that his name be placed on the ballot. An application may not be filed earlier than the 30th day before the date of the filing deadline. Each candidate who files an application is entitled to have his name printed on the official ballot beneath the number of the position designated in his application. A person who fails to file the application required by this section may not have his name printed on the official ballot. A candidate is eligible to have his name printed on the ballot under only one position to be filled at the election.

(e) In the election each voter may vote for only one candidate for each numbered position. The candidate receiving the most votes for each numbered position voted on in the election is entitled to serve as a trustee on the board, in the position to which he is elected.

(f) Notice of an election in a district must be given in the manner and for the time required under the law authorizing the creation of the district, except where there is a conflict with the provisions of this section, then this section is controlling.

(g) The board of trustees of a district with a population greater than one million may require that an application filed under Subsection (d) be accompanied by a filing fee not to exceed $200 as determined by the board or, instead of the filing fee, a petition signed by a number of registered voters of the district not to exceed 200 as determined by the board.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971; am. Acts 1987, 70th Leg., ch. 508 (H.B. 377), § 4, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 1149 (H.B. 2956), § 1, effective September 1, 2005.)

SUBCHAPTER D
CHANGES IN DISTRICT BOUNDARIES

Sec. 130.061. Extension of Boundaries of a Junior College District Coextensive with an Independent School District.

The district boundaries of an independent school district junior college shall automatically be ex-

tended so that the boundary lines of the two districts, independent school district and junior college district, shall remain identical when:

(1) the junior college district was created with the same boundary lines as an independent school district;

(2) the boundaries of the independent school district are extended by consolidation, attachment of territory, or otherwise; and

(3) the board of trustees of the independent school district is also the governing board of the junior college.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.061).)

Sec. 130.062. Enlarged District: Creation; Resolution; Order.

(a) If the creation of the junior college district and the extension of the boundaries of the independent school district both occurred prior to March 17, 1950, the added territory of the independent school district may be brought into the junior college district in the manner prescribed by this section.

(b) A petition requesting that such territory be added to the junior college district signed by a majority of the registered voters of the territory may be presented to the governing board of the junior college district.

(c) The board shall determine whether the petition is signed by the required majority and if such determination is affirmative and if the board shall also determine that the facilities of the junior college district may be extended to cover adequately the scholastics of the added territory, the board shall pass an order admitting such territory. The order shall describe by metes and bounds the junior college district as extended; and a copy of the order shall be filed with the county superintendent. Thereafter, the territory shall be a part of the junior college district for all intents and purposes.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.062); am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 88, effective September 1, 1993.)

Sec. 130.063. Extension of Junior College District Boundaries.

(a) Subject to Subsection (b), territory may be annexed to a junior college district by contract under Section 130.064 or election under Section 130.065, if the territory:

(1) is contiguous to the annexing junior college district; or

(2) is located in the service area of the annexing district established under Subchapter J.

(b) Territory may be annexed to a junior college district as provided by this section only if the territory is located wholly within a single school district, county, or municipality. This subsection does not prohibit a junior college district from conducting annexation elections or other annexation procedures for more than one territory at the same time.

(c) A junior college district may not annex territory under this section that is included in the boundaries of another junior college district.

(d) Except as provided by Subsection (e), a junior college district may not annex territory under this section if a campus of the Texas State Technical College System is located:

(1) within the county in which the territory is located; and

(2) outside the junior college district.

(e) This section does not prevent a junior college district from annexing territory located in Brown County.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971(renumbered from 51.063); am. Acts 1981, 67th Leg., ch. 802 (H.B. 389), § 1, effective August 31, 1981; am. Acts 1999, 76th Leg., ch. 1397 (H.B. 1869), § 1, effective August 30, 1999; am. Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 4, effective June 18, 2005; am. Acts 2013, 83rd Leg., ch. 1076 (H.B. 3332), § 1, effective June 14, 2013.)

Sec. 130.064. Annexation by Contract.

If the annexation is by contract, a petition shall be presented to the governing board of any junior college district, executed by all property owners of all property situated in the territory proposed for annexation. The petition shall contain a legally sufficient description of the territory proposed for annexation. The governing board of the junior college district, if it deems the annexation to be in the best interest of the district, may effect the annexation by:

(1) entering its order authorizing the annexation of the territory by contract; and

(2) then entering into a written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within the territory.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.064).)

Sec. 130.065. Annexation by Election.

(a) On presentation to the governing board of a junior college district of a petition proposing the annexation of territory to the district, the governing board may call an election on the question of annexing the territory. The petition must:

(1) contain an accurate description of the territory proposed for annexation; and

(2) be signed by a number of registered voters in the territory proposed to be annexed equal to at least five percent of the registered voters in that territory as of the most recent general election for state and county officers.

(b) Before the governing board of the junior college district may order an annexation election, the board must hold a public hearing within the territory proposed for annexation. The hearing must be held not earlier than the 45th day and not later than the 30th day before the date the board issues the order for the election.

(c) Not later than the 30th day before the date of a public hearing held under Subsection (b), the board shall complete and publish a service plan for the territory proposed for annexation. The service plan is informational only and must include:

(1) the maximum property tax rate that the board may adopt;

(2) the most recent property tax rate adopted by the board and any tax rate increase proposed or anticipated to occur after the annexation;

(3) the tuition rate that would apply after annexation for a student who resides in the district;

(4) the tuition and fees that would apply under Section 130.0032(d) for a student who resides outside the district;

(5) plans for providing educational services in the territory, including proposed or contemplated campus and facility expansion in the territory;

(6) plans for cooperation with local workforce agencies; and

(7) any other elements consistent with this subchapter prescribed by rule of the Texas Higher Education Coordinating Board.

(d) The governing board shall issue an order for an election to be held in the territory proposed for annexation on a uniform election date that is not less than 45 days after the date of the order and that affords enough time to hold the election in the manner provided by law. The board shall give notice of the election in the manner provided by law for notice by the county judge of a general election.

(e) The governing board shall conduct the election in accordance with the Election Code.

(f) The election shall be held only in the territory proposed for annexation, and only those registered voters residing in that territory are permitted to vote.

(g) The ballot shall be printed to provide for voting for or against the proposition: "Approving the annexation by the _____ (name of junior college district) of the following territory: _____ (with the blank filled in with a description of the territory proposed for annexation), and authorizing the imposition an ad valorem tax for junior college purposes, which is currently set at a rate of _____ (with the blank filled in with the ad valorem tax rate of the district for the current year or, if that rate has not been adopted, the tax rate for the preceding year) per $100 valuation of taxable property."

(h) The measure is adopted if the measure receives a favorable vote of a majority of those voters voting on the measure.

(i) If the measure is adopted, the governing board of the district shall enter an order declaring the result of the election and that the territory is annexed to the junior college district on the date specified in the order.

(j) If the proposition is adopted and the governing board is elected from single-member districts, the governing board in the annexation order entered under Subsection (i) shall assign the new territory to one or more of the current single-member districts.

(k) The annexation of territory and any resulting change in the single-member districts from which members of the governing board are elected does not affect the term of a member of the governing board serving on the date the annexation or redistricting takes effect. The governing board shall provide that each member of the governing board representing a single-member district who is holding office on the date the annexation takes effect serve the remainder of the member's term and represent a single-member district in the expanded junior college district for that term regardless of whether the member resides in that single-member district.

(*l*) If the measure is not adopted at the election, another election to annex all or part of the same territory may not be held earlier than one year after the date of the election at which the measure is not adopted.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.065); am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 89, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 5, effective June 18, 2005; am. Acts 2011, 82nd Leg., ch. 37 (S.B. 1226), § 1, effective September 1, 2011.)

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Applicability. — Acts 2011, 82nd Leg., ch. 37 (H.B. 1226), § 2 provides: "The change in law made by this Act applies only to the

ballot for an election ordered to be held on or after the effective date of this Act [September 1, 2011]."

Sec. 130.066. Automatic Annexation of Certain Territory.

If the junior college district annexes territory under this subchapter comprising all of a municipality or school district, the governing board by order may annex for junior college purposes any territory later annexed by or added to the municipality or school district.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971; am. Acts 1999, 76th Leg., ch. 1397 (H.B. 1869), § 2, effective August 30, 1999; am. Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 5, effective June 18, 2005.)

Sec. 130.067. Annexation of County-line School District for Junior College Purposes.

(a) In this section:

(1) "County-line school district" means any type of public school district created or organized under general or special law that includes within its boundaries territory that is located in two or more counties of Texas.

(2) "County or joint-county junior college district" means a junior college district that was originally created and organized with the same boundaries as a county or as a group of contiguous counties and that included all of the territory in the county or group of counties and did not include a part of any county without including the entire territory of the county.

(b) A part of a county-line school district that is contiguous to but not included within the boundaries of a county or joint-county junior college district may be annexed to the junior college district for junior college purposes only either by election as provided by Section 130.065 or by order entered pursuant to a petition requesting annexation of the territory as provided by this section.

(c) The county or joint-county junior college district as originally created and organized must have included in its boundaries a part of the county-line school district, and the part of the county-line school district to be annexed may not be included in any other junior college district.

(d) On presentation of a petition, signed by a number of registered voters residing in the part of a county-line school district requesting annexation equal to at least a majority of the registered voters residing in that territory as of the most recent general election for state and county officers to the county judge of the county in which the territory requested to be annexed is located, together with a certified copy of an order by the governing board of the junior college district approving the proposed annexation to the junior college district for junior college purposes only, the county judge shall certify the filing of the petition and order to the commissioners court. The court at its next meeting shall pass an order declaring the territory annexed to the junior college district.

(e) Territory may be annexed by petition under this section only if the territory is located wholly within a single county. For territory located in more than one county, a separate petition requesting the annexation of the territory is required for each county.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.066); am. Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 5, effective June 18, 2005.)

Sec. 130.068. Extending Boundaries of Junior College District in District's Service Area.

(a) The governing board of a junior college district may order an election on the question of establishing expanded boundaries for the junior college district to encompass all of the territory located within the district's service area established by Subchapter J, other than territory located in the service area of another junior college district, if more than 35 percent of the total number of students who enrolled in the junior college district in the most recent academic year resided outside of the existing junior college district.

(b) The governing board of a junior college district may order an election on the question of establishing expanded boundaries for the junior college district to encompass part of the territory located within the district's service area established by Subchapter J, other than territory located in the service area of another junior college district, if more than 15 percent of the high school graduates for each of the preceding five academic years in the territory proposed to be added to the district have enrolled in the junior college district.

(c) Except as otherwise provided by this section, Section 130.065 applies to an action taken under this section, including the provisions of Section 130.065 requiring a petition to be submitted before an election may be called.

(d) A junior college district may not adopt new boundaries for the district under this section that extend within the service area of another junior college district.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.067); am. Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 6, effective June 18, 2005.)

Sec. 130.069. Disannexation of Overlapped Territory.

(a) All junior college districts whose boundaries have or may hereafter become established so that they include territory which prior to such establishment lay, and shall continue to lie, within the boundaries of another junior college district shall have the power to disannex such overlapped territory.

(b) Upon certification by the governing board of such a junior college district to the county board of school trustees of the county in which its college is located that such an overlapping condition exists, the county board may by resolution disannex the overlapped territory from the district, describing such territory by metes and bounds.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.068).)

Sec. 130.070. Disannexation of Territory Comprising an Independent School District.

(a) The territory of an independent school district which is the only school district that has been annexed to a countywide independent school district junior college district in an adjoining county may be disannexed from such countywide independent school district junior college district and constituted as a separate independent school district junior college district in accordance with the provisions of this section, provided that the countywide independent school district junior college district has no outstanding bonded indebtedness which was incurred after the annexation of such independent school district.

(b) The proposed disannexation and creation of a separate junior college district shall be initiated by a petition signed by not less than five percent (5%) of the registered voters of the independent school district seeking disannexation. The petition shall be presented to the board of trustees of the independent school district seeking to be disannexed, which shall pass upon the legality and genuineness of the petition and forward the petition, if approved, to the coordinating board.

(c) If the petition is found to be in order and all statutory provisions have been complied with, the coordinating board shall approve the petition and notify the board of trustees of the independent school district seeking to be disannexed, of such approval. The board of trustees of the independent school district seeking disannexation shall then order an election to be held in the school district within a time not less than twenty (20) days nor more than thirty (30) days after the order is issued. At the election the ballots shall be printed to provide for voting for or against the proposition: "Disannexation of the ____ Independent School from the ____ Junior College District, and creation of the ____ Junior College District with boundaries coterminous with the boundaries of the ____ Independent School District" (the blanks to be filled in as appropriate). All expenses incurred in holding the election shall be paid by the independent school district ordering such election.

(d) The board of trustees shall make a canvass of the returns and declare the result of the election within ten (10) days after holding the election and shall enter an order on the minutes of the board as to the result of the election. If a majority of the votes cast are in favor of disannexation and creation of a separate junior college district, such independent school district shall be deemed disannexed and constituted as a separate junior college district.

(e) If the creation of the separate junior college district is approved, it shall be governed by the provisions of this code relating to independent school district junior colleges. The offices of the representatives of the disannexed independent school district on the governing body of the countywide independent school district junior college district shall be terminated, and the remaining members of that governing body shall continue to serve for the terms for which they were elected.

(f) Any petition for disannexation and creation of a separate junior college district may also incorporate a request for the proper authorities, in the event an election is ordered for the creation of a new district, to submit at the same election, either as a part of the disannexation issue or as a separate issue, the questions of issuing bonds and levying bond taxes and levying maintenance taxes, in the event the district is created, not to exceed the limits provided in Section 130.122 of this code.

(Enacted by Acts 1972, 62nd Leg., 4th C.S., ch. 16 (S.B. 19), § 1, effective October 30, 1972; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 90, effective September 1, 1993.)

Sec. 130.071. Annexation of City Territory by Certain Districts [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 7, effective June 18, 2005.

(Enacted by Acts 1981, 67th Leg., ch. 152 (H.B. 1182), § 1, effective August 31, 1981; am. Acts 1983, 68th Leg., ch. 417 (H.B. 936), § 1, effective June 17, 1983; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.76, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 47, effective September 1, 1991.)

Sec. 130.0711. Annexation of Certain Independent School District Territory by Certain Junior College Districts [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 7, effective June 18, 2005.

(Enacted by Acts 1991, 72nd Leg., ch. 179 (S.B. 1237), § 1, effective May 24, 1991.)

Sec. 130.072. Annexation of County Territory by Certain Union Districts [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 7, effective June 18, 2005.

(Enacted by Acts 1983, 68th Leg., ch. 86 (S.B. 357), § 1, effective May 10, 1983; am. Acts 1985, 69th Leg., ch. 694 (H.B. 501), § 2, effective August 26, 1985; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.77, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 48, effective September 1, 1991.)

Sec. 130.073. Annexation of County Territory by Certain Districts [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1100 (H.B. 2221), § 7, effective June 18, 2005.

(Enacted by Acts 1985, 69th Leg., ch. 694 (H.B. 501), § 1, effective August 26, 1985; am. Acts 1991, 72nd Leg., ch. 597 (S.B. 992), §§ 61, 62, effective September 1, 1991; am. Acts 2001, 77th Leg., ch. 669 (H.B. 2810), § 12, effective September 1, 2001.)

SUBCHAPTER E
BOARDS OF TRUSTEES OF JUNIOR COLLEGE DISTRICTS

Sec. 130.081. Governing Board of Junior College of Independent School District.

In each junior college district which is controlled and managed by, and under the jurisdiction of, the governing board of an independent school district or a city school district, such governing board shall be constituted and chosen in accordance with the laws of this state applicable to the governing board of such independent school district or city school district.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.071).)

Sec. 130.082. Governing Board of Junior College of Other Than Independent School District.

(a) Except as provided by Section 130.081 or another section of this subchapter, the governing boards of all junior college districts shall be constituted and chosen as described in the provisions of this section.

(b) The official name of the governing board of the junior college district shall be the board of trustees.

(c) The official name of a junior college district shall be the " ____ Junior College District" unless the board of trustees of the district elects to call the district a community college district, in which event the official name of the junior college district shall be the " ____ Community College District." The board shall designate an appropriate and locally pertinent descriptive word or words to be filled in the appropriate blank (and may change such designation when deemed advisable) by resolution or order; provided that no two districts shall have the same or substantially similar names. A district may change its name under Section 130.005 or 130.0051. All resolutions or orders designating or changing names shall be filed immediately with the Texas Higher Education Coordinating Board and the first name filed shall have priority, and the district shall be advised of any previous filing of any identical or substantially similar name. The name of any junior college district existing on September 1, 1997, shall remain the same until and unless it is changed under this chapter, and any change in the name of a junior college district made before that date is validated and is deemed to have been properly made. Another district may not use the name of any district whose name change is validated under this subsection.

(d) The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of this code or on the date of the creation of a new district or a new board. Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Subsection (e) of this section. Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by a special election ordered by the board or by appointment by resolution or order of the board. A person appointed to fill a vacancy in a trustee district must

be a resident of that trustee district. A person appointed to fill a vacancy in the representation of the district at large must be a resident of the district at large. A special election to fill a board vacancy is conducted in the same manner as the district's general election except as provided by the applicable provisions of the Election Code. The person appointed to fill the unexpired term shall serve until the next regular election of members to the board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. Each member of the board shall be a resident, qualified voter of the district and shall take the proper oath of office before taking up the duties thereof. Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. The board shall elect one of its members as president of the board, and the president shall preside at meetings of said board and perform such other duties and functions as are prescribed by the board. The president of the board shall have a vote the same as the other members. The board shall elect a secretary of the board who may or may not be a member of the board, and who shall be the official custodian of the minutes, books, records, and seal of said board, and who shall perform such other duties and functions as are prescribed by the board. The board shall be authorized to elect any other officers as deemed necessary or advisable. Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy. Said board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean, or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the junior college. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section.

(e) The basic term of office of a member of the board shall be six years, and one-third of the members of the board shall be elected at large in the district at regular elections to be held on the first Saturday in April in each even-numbered year; provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. The members of each board in office at the effective date of this act, and all subsequent members of the board, shall remain in office until the expiration of the terms for which they were elected or appointed, and until their successors shall have been elected and qualified; provided that where any existing board has held its regular elections for members of the board in odd-numbered years prior to the effective date of this act, the board shall nevertheless hold its next regular election on the first Saturday in April of the next even-numbered year following the effective date of this act, and the term of office of each incumbent member of the board shall, in effect, be lengthened by one year so as to comply with the foregoing provisions of this act. Upon the creation of a new board, or in any other situation where necessary, the members of the board shall choose by lot the terms for which they shall serve, so as to comply with the foregoing provisions. If a board is increased from seven to nine members, one of the members shall be appointed to serve until the first election at which two members otherwise would have been elected, and the other shall be appointed to serve until the second election at which two members otherwise would have been elected, and three members shall be elected for six-year terms at each election.

(f) Members of a board shall be elected at large from each junior college district at regular elections to be called and held by the board for such purpose, at the expense of the district, on the first Saturday in April in each even-numbered year. Said elections shall be held in accordance with the Texas Election Code except as hereinafter provided, and all resident, qualified electors of the district shall be permitted to vote. Each such election shall be called by resolution or order of the board, and notice of each such election shall be given by publishing an appropriate notice, in a newspaper of general circulation in the district, at least 10 days prior to the date of the election, setting forth the date of the election, the polling place or places, the numbers of the positions to be filled, the candidates for each position and any other matters deemed necessary or advisable.

(g) The board shall designate a number for the position held by each member of the board, from one upward in consecutive numerical order in such manner that the lowest numbers shall be assigned to the members whose terms of office expire in the shortest length of time, provided that any such position number designations on existing boards under ex-

isting law at the effective date of this act shall remain in effect. At each election candidates shall be voted upon and be elected separately for each position on the board, and the name of each candidate shall be placed on the official ballot according to the number of the position for which he or she is running. A candidate receiving a majority of the votes cast for all candidates for a position shall be declared elected. If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The run-off election for all positions shall be held on a date that complies with law and shall be ordered, notice thereof given, and held, as provided herein for regular elections. Any resident, qualified elector of the district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing with the secretary of the board a written application therefor signed by the applicant, not later than 5 p.m. of the 45th day before the date of the election. An application may not be filed earlier than the 30th day before the date of the filing deadline. Such application must state the number of the position for which he or she is a candidate, or the name of the incumbent member of the board holding the position for which he or she desires to run. The location on the ballot of the names of candidates for each position shall be chosen by lot by the board. A candidate shall be eligible to run for only one position at each election.

(h) Notwithstanding anything in this code to the contrary, the provisions of all or any part of the laws of this state in effect immediately prior to the effective date of this act and relating to the name of any junior college district or the name of its governing board, or to the number of members of its governing board, or the procedures and times of electing or choosing said members, shall remain in effect under the following conditions. If, at any time before the effective date of this act (but not thereafter), the governing board of any junior college district shall specify by resolution or order the particular provisions of the aforesaid laws applicable to it which it desires to remain in effect, then such particular provisions shall continue to apply to said board and its district; provided that at any time thereafter the governing board may make this section in its entirety applicable to it and its district by appropriate resolution or order, and thereby permanently cancel the effect of the aforesaid particular provisions of other laws. All resolutions and orders permitted by this section shall be filed immediately with the Coordinating Board, Texas College and University System.

(i) The election of trustees of a countywide junior or community college district that contains a city with a population of more than 1.18 million located primarily in a county with a population of 2 million or more shall be held on the first Saturday in April of each even-numbered year. When a runoff election is necessary, the board may order the election for a date to coincide with the date of the runoff election for city officials, if the city is holding a runoff election; otherwise, the board shall set the date of the runoff election for not later than three weeks following the regular election.

(j) Notwithstanding the election dates prescribed by this section, an election held under this section shall be held on a uniform election date as provided by law.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.072); am. Acts 1975, 64th Leg., ch. 673 (S.B. 365), § 1, effective June 20, 1975; am. Acts 1977, 65th Leg., ch. 554 (H.B. 337), § 1, effective June 15, 1977; am. Acts 1983, 68th Leg., ch. 844 (H.B. 1141), § 2, effective August 29, 1983; am. Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 25(j), effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 508 (H.B. 377), § 5, effective September 1, 1987; am. Acts 1989, 71st Leg., 1st C.S., ch. 2 (S.B. 27), § 1, effective July 18, 1989; am. Acts 1991, 72nd Leg., ch. 597 (S.B. 992), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 570 (H.B. 1460), § 2, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 669 (H.B. 2810), § 13, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 13, effective September 1, 2011.)

Sec. 130.0821. Governing Board of Certain Countywide Community College Districts.

(a) The members of the governing board of a countywide community college district that contains a city with a population of more than 384,500 residents shall be elected from single-member trustee districts.

(b) The board of trustees shall divide the district into the appropriate number of compact trustee districts which contain as nearly as practicable an equal number of inhabitants according to the last preceding federal census. Residents of each trustee district shall be entitled to elect one member of the board, and each candidate seeking to represent a trustee district must reside in the trustee district he seeks to represent. Trustees shall, during their term of office, reside within the trustee district from which they were elected.

(c) Members of the board of trustees of the district shall serve for staggered terms of six years with the terms of one-third of the members, as nearly as may be, expiring in each even-numbered year.

(d) [Repealed by Acts 1991, 72nd Leg., ch. 365 (H.B. 272), § 2, effective September 1, 1991.]

(e) Not later than the 90th day after the earliest date on which the board of trustees may recognize and act on the publication of the federal decennial census under Section 2058.001, Government Code, the board of trustees shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous trustee district exceeds the population of the least populous district by more than 10 percent. Within 90 days following the effective date of an order or resolution of the board of trustees to increase the number of board members, the board of trustees shall redivide the district into the appropriate number of trustee districts as increased. At the next district election following the redistricting of the district under this subsection, each trustee district shall elect a member of the board unless the board of trustees determines that trustees shall be elected from the new trustee districts as provided by Section 130.0826, and the members elected shall draw lots for the appropriate number of two-year, four-year, and six-year terms as needed to establish staggered terms as required by Subsection (c).

(f) Any election held pursuant to the terms of this section shall be conducted in accordance with the provisions of Subsection (i), Section 130.082 of this code.

(g) Trustees elected under the provisions of this section take office on the first Tuesday in May.

(h) A district described by Subsection (a) of this section that has previously adopted or been required to implement single-member district representation in connection with a judicial proceeding may continue to operate under that plan.

(Enacted by Acts 1977, 65th Leg., ch. 743 (S.B. 353), § 1, effective August 29, 1977; am. Acts 1991, 72nd Leg., ch. 365 (H.B. 272), §§ 1, 2, effective September 1, 1991; am. Acts 2001, 77th Leg., ch. 89 (H.B. 1754), § 1, effective May 11, 2001; am. Acts 2001, 77th Leg., ch. 1324 (H.B. 2459), § 2, effective June 16, 2001.)

Sec. 130.0822. Election from Single-Member Trustee Districts.

(a) The board of trustees of a junior college district may order that all or a majority of the trustees of the district be elected from single-member trustee districts.

(b) An order of the board adopted under Subsection (a) of this section must be entered not later than the 120th day before the day of the first election of trustees from single-member trustee districts.

(c) The appointment and election of trustees of the junior college district are subject to Section 130.082 of this code, except as otherwise provided by this section.

(d) If the board orders that trustees shall be elected from single-member trustee districts, the board shall divide the junior college district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member districts, and shall number each trustee district.

(e) The trustee districts must be compact and contiguous, and must be as nearly as practicable of equal population according to the last preceding federal census.

(f) Trustee districts must be drawn not later than the 90th day before the day of the first election of trustees from single-member districts.

(g) The board may provide for trustees holding office on the date of the initial election of trustees from single-member districts to serve the remainder of their terms and to represent a trustee district for that term without having residency in that trustee district.

(h) Except in the case of residents of a trustee district who are represented by a trustee serving in accordance with Subsection (g) of this section, residents of each trustee district are entitled to elect one trustee to the board. A candidate for trustee must be a resident of the trustee district the candidate seeks to represent. A trustee other than a trustee serving in accordance with Subsection (g) of this section vacates the office if he or she ceases to reside in the trustee district he or she represents.

(i) Any vacancy on the board shall be filled by appointment made by the remaining members of the board. The appointed person serves for the unexpired term.

(j) After each redistricting, all positions on the board shall be filled unless the board of trustees determines that trustees shall be elected from the new trustee districts as provided by Section 130.0826. The trustees then elected shall draw lots for staggered terms as provided by Section 130.082.

(k) Not later than the 90th day before the day of the first regular junior college district trustee election at which trustees may officially recognize and act on the last preceding federal census, the board shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than 10 percent. Redivision of the district

shall be in the manner provided for the initial division of the district.

(*l*) This section does not apply to a junior college district to which Section 130.081, 130.083, 130.0821, or 130.088 of this code applies, or to a junior college district required by other law to elect trustees from single-member districts. This section does not apply to the election of trustees in any district in which the election of trustees is governed by a court order so long as that order remains in effect. This section does apply to an independent school district junior college district governed by a separate board of trustees.

(Enacted by Acts 1989, 71st Leg., ch. 1029 (H.B. 59), § 1, effective September 1, 1989; am. Acts 2001, 77th Leg., ch. 89 (H.B. 1754), § 2, effective May 11, 2001.)

Sec. 130.0823. Election by Position in Certain Districts.

(a) This section applies to a junior college that elects a governing board of seven members, with four members elected from respective commissioner precincts and three members elected at large.

(b) The governing board of the junior college may order that the board members elected at large be elected instead by position. The order must be entered not later than the 120th day before the first election of a trustee by position.

(c) The board may provide for trustees holding office on the date of the initial election of trustees by position to serve the remainder of their terms and to represent a position for that term.

(Enacted by Acts 1999, 76th Leg., ch. 1070 (H.B. 3263), § 1, effective August 30, 1999.)

Sec. 130.0824. Governing Board of Texarkana College District.

(a) Notwithstanding any other provision of this subchapter, the governing board of the Texarkana College District may by resolution or order of the board decrease the number of board members from nine to seven, with four members elected from respective commissioner precincts and three members elected at large.

(b) A resolution or order of the governing board under this section must establish transition terms of office to conform to elections held in even-numbered years and staggered six-year terms, with the initial board terms of three members expiring in 2014, of two members expiring in 2016, and of two members expiring in 2018.

(Enacted by Acts 2013, 83rd Leg., ch. 825 (S.B. 1855), § 1, effective September 1, 2013.)

Sec. 130.0825. Write-In Voting in Election for Members of Governing Body.

(a) In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers.

(b) A declaration of write-in candidacy must be filed not later than the deadline prescribed by Section 146.054, Election Code, for a write-in candidate in a city election.

(c) Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section.

(d) The secretary of state shall adopt rules necessary to implement this section.

(e) [Repealed by Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 51(2), effective September 1, 2011.]

(Enacted by Acts 1997, 75th Leg., ch. 1343 (H.B. 51), § 1, effective June 20, 1997; am. Acts 1999, 76th Leg., ch. 666 (H.B. 442), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 925 (S.B. 1215), § 10, effective November 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 33, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), §§ 45, 51(2), effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 130.0826. Option to Continue in Office Following Redistricting.

(a) The board of trustees of any junior college district that elects some or all of its members from single-member districts and in which the trustees serve staggered terms may provide for the trustees in office at the first election after the junior college district is redistricted to serve for the remainder of their terms in accordance with this section.

(b) If the board of trustees provides for the trustees in office to serve for the remainder of their terms in accordance with this section, the trustee districts established by the redistricting plan shall be filled as the staggered terms of trustees in office expire. When the board of trustees adopts a redistricting plan, the board shall determine from which new trustee district the position of each trustee in office will be filled as it becomes vacant.

(c) This section does not authorize a trustee of a junior college district to continue in office after a

redistricting plan takes effect if the member no longer resides in the district from which the trustee was elected.
(Enacted by Acts 2001, 77th Leg., ch. 89 (H.B. 1754), § 3, effective May 11, 2001.)

Sec. 130.083. Governing Board in Enlarged Junior College District.

(a) From and after May 22, 1969, those junior college districts which were on May 22, 1969, operating under Chapter 15, Acts of the 58th Legislature, 1963 (Article 2815o-1b, Vernon's Texas Civil Statutes), and to which one, or more, school districts has been annexed for junior college purposes only, may, by a majority vote of the board of regents of the junior college district, choose to operate and be governed by a board of regents.

(b) Each school district which has been annexed to the junior college district for junior colleges purposes only shall be represented by at least one member of the board of regents. If the assessed tax rolls exceed $67,500,000, the school district shall be represented by one member of the board of regents for each $67,500,000 of assessed value, or a major fraction thereof, on the junior college tax roll, located within the school district. The original junior college district shall be represented on the board of regents by a number of regents arrived at according to the same formula.

(c) The total number of members of the board of regents of the junior college district shall never exceed 14. When the valuation of the enlarged district increases to the point that the number of regents exceeds 14 under the formula described in Subsection (b) of this section then the board of regents of the junior college district shall set a formula, based on proportional tax values, of representation, which will produce a total of 14 members of the board of regents.

(d) The terms of office of the regents authorized by this act shall be six years. Those regents serving as regents on May 22, 1969, shall continue in office for the remainder of their respective terms and then until such time as their successors shall have been elected and qualified, and thereafter in each even-numbered year three regents shall be elected from the area originally forming the junior college district to succeed those regents whose terms are expiring, but if the number of regents becomes more or less than nine, the formula set out in Subsection (e) of this section shall be followed. All new regents added to the board of regents under the provisions of this section shall be appointed by the board of regents which orders the enlargement of the membership of such board, and shall serve until election specified in Subsection (e) of this section. All vacancies on the board of regents shall be filled at once for the unexpired term only by appointments made by the remaining members of such board.

(e) Where additional regent positions are provided under the terms of this section, the board of regents at the time of such authorization shall designate by resolution duly recorded in the minutes of such board the term to be served by each such additional regent, provided that the first regent authorized and appointed shall serve only until the next regular regent election, the second such regent shall serve until the regent election two years after the next regular regent election, and the third regent shall serve until the regent election four years after the next regular regent election, with additional regents which may be authorized to follow the same rotation of terms until all terms of additional regents provided under the terms of this section have been fixed to expire at the next regular regent election, or at the regent election two years after the next regular regent election, or at the regent election four years after the next regular election. Additional regents appointed to such terms and until such times as their successors shall have been elected and qualified, and thereafter the terms of such regents shall be for six years.

(f) Regent elections in all parts of the districts affected by the provisions of this section shall be held at the times and in the manner now provided for public junior colleges by general law. The qualified voters residing in the school district represented shall be entitled to vote in such elections. Each regent to be elected shall be a resident of the school district he is to represent and each regent to represent the original college district shall be a resident of the original college district.

(g) The provisions of this section shall be cumulative of existing laws governing elections of regents in public junior college districts.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.084. Powers and Duties.

(a) The governing board of a junior college district shall be governed in the establishment, management, and control of a public junior college in the district by the general law governing the establishment, management, and control of independent school districts insofar as the general law is applicable.

(b) The governing board of a junior college district may set and collect with respect to a public junior college in the district any amount of tuition, rentals, rates, charges, or fees the board considers necessary for the efficient operation of the college, except that a tuition rate set under this subsection must satisfy

the requirements of Section 54.051(n). The governing board may set a different tuition rate for each program, course, or course level offered by the college, including a program, course, or course level to which a provision of Section 54.051 applies, as the governing board considers appropriate to reflect course costs or to promote efficiency or another rational purpose.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.073); am. Acts 2005, 79th Leg., ch. 805 (S.B. 532), § 2, effective June 17, 2005.)

Sec. 130.0845. Removal of Trustee for Nonattendance of Board Meetings.

(a) It is a ground for removal of a member of the board of trustees of a junior college district that the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the board.

(b) The validity of an action of the board of trustees is not affected by the fact that the action is taken when a ground for removal of a member of the board exists.

(c) A member of a board of trustees may be removed for a ground provided by this section, using the procedures provided by Subchapter B, Chapter 87, Local Government Code, for removing a county official.

(Enacted by Acts 2005, 79th Leg., ch. 673 (S.B. 114), § 1, effective September 1, 2005.)

Sec. 130.085. Tuition Exemption.

(a) The board of trustees of any public junior college may exempt from payment of tuition all students who are residents of the junior college district and who are enrolled for 12 or more semester credit hours, provided that this action will allow the college to participate in and benefit from funds available as provided by Sections 1-7, Title I, 64 Stat. 1100, as amended, 20 U.S.C. Secs. 236-241-1.

(b) This action by the board of trustees does not affect their authority under Section 130.123 of this code, nor does this section in any way supersede that section. This action of the board does not affect the right of the college to a proportionate share of state appropriations under Section 130.003 of this code.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 2, § 31, effective September 1, 1971.)

Sec. 130.0851. Tuition Exemption for District Employees.

The governing board of a junior college district may exempt a district employee who enrolls in courses offered by the district from the payment of all or part of the tuition or fees charged to a student at a junior college by the district.

(Enacted by Acts 2009, 81st Leg., ch. 382 (H.B. 1568), § 1, effective June 19, 2009.)

Sec. 130.086. Branch Campuses.

(a) The board of trustees of a junior college district may establish and operate branch campuses, centers, or extension facilities within the junior college district's service area, provided that each branch campus, center, or extension facility and each course or program offered in such locations is subject to the prior and continuing approval of the Texas Higher Education Coordinating Board.

(b) Such branch campuses, centers, or extension facilities shall be within the role and scope of the junior college as determined by the Coordinating Board, Texas College and University System.

(c) The board of trustees of a junior college district may accept or acquire by purchase or rent land and facilities in the name of the junior college district within the junior college district's service area.

(d) Before any course may be offered by a public junior college within the service area of another operating public junior college, it must be established that the second public junior college is not capable of or is unable to offer the course. After the need is established and the course is not locally available, then the first public junior college may offer the course when approval is granted by the Texas Higher Education Coordinating Board.

(e) The board of trustees of a junior college district may enter cooperative agreement with independent, common, or county school districts, state or federal agencies as may be required to perform the services as outlined in this section.

(f) Notwithstanding Subchapter J, the service area of a junior college district does not include territory within the boundaries of the taxing district of another junior college district. If a branch campus, center, or extension facility operated by a junior college district outside its taxing district becomes located within the taxing district of another junior college district when the other district is established or annexes the territory that includes the campus, center, or facility, the junior college district operating the campus, center, or facility must discontinue

the campus, center, or facility within a reasonable period, not to exceed one academic year. The junior college district in which the campus, center, or facility is located must fairly compensate the junior college district that discontinues the campus, center, or facility for any capital improvements that the discontinuing district acquired or constructed for the campus, center, or facility, to the extent the discontinuing district is otherwise unable to recover the current value of its investment in that capital improvement, as determined by the Texas Higher Education Coordinating Board.

(g) Subsections (a) and (c) do not apply to a branch campus, center, or extension facility that is established before September 1, 1999.

(h) This section does not affect the authority of the Texas Higher Education Coordinating Board regarding the continued operation of a branch campus, center, or extension facility.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 2, § 25, effective September 1, 1971; am. Acts 1975, 64th Leg., ch. 673 (S.B. 365), § 2, effective June 20, 1975; am. Acts 1975, 64th Leg., ch. 689 (H.B. 2061), §§ 1—4, effective June 20, 1975; am. Acts 1999, 76th Leg., ch. 1424 (H.B. 2415), § 1, effective September 1, 1999.)

Sec. 130.0865. Security for Revenue Bonds Issued for Branch Campus, Center, or Extension Facility.

Bonds payable from revenue and issued by the governing body of a county or school district to finance the purchase of land or the construction of a facility to be used for a branch campus, center, or extension facility authorized under Section 130.086 may be secured by a trust indenture, a deed of trust, or a mortgage granting a security interest in the applicable land or facility.

(Enacted by Acts 2013, 83rd Leg., ch. 357 (H.B. 2474), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 357 (H.B. 2474), § 3(a) provides: "The change in law made by this Act in adding Section 130.0865, Education Code, applies only to a bond issued on or after the effective date of this Act [June 14, 2013]. A bond issued before the effective date of this Act is governed by the law in effect at the time the bond was issued, and the former law is continued in effect for that purpose."

Sec. 130.087. Branch Campus Maintenance Tax.

(a) The governing body of a school district or a county may levy a junior college district branch campus maintenance tax as provided by this section at a rate not to exceed five cents on each $100 valuation of all taxable property in its jurisdiction.

(b) On presentation of a petition for an election to authorize a junior college district branch campus maintenance tax signed by not fewer than five percent of the qualified voters of the jurisdiction in which the proposed tax is to be levied, the governing body of the school district or county, as applicable, shall determine the legality and the genuineness of the petition and, if it is determined to be legal and genuine, forward the petition to the Texas Higher Education Coordinating Board. The governing body of a county with a population of 150,000 or less, on completion of a needs assessment analysis showing adequate need and on approval by the coordinating board, on its own motion and without the presentation of a petition, may propose an election to authorize a branch campus maintenance tax.

(c) The coordinating board shall determine whether the requirements provided by Subsections (a) and (b) of this section have been satisfied and whether the proposed tax is feasible and desirable under the board's rules for junior colleges. In making its decision on the feasibility and desirability of the tax, the coordinating board shall consider the needs of the junior college, the needs of the community or communities served by the branch campus, and the welfare of the state as a whole. The commissioner of higher education shall deliver to the governing body of the school district or county, as applicable, the order of the coordinating board authorizing or denying further action in the levying of a junior college district branch campus maintenance tax.

(d) If the coordinating board approves the establishment of the junior college district branch campus maintenance tax, the governing body of the school district or county, as applicable, shall enter an order for an election to be held in the territory under its jurisdiction not less than 20 days nor more than 60 days after the date on which the order is entered to determine whether the junior college district branch campus maintenance tax may be levied. In the case of joint school district or joint county elections, by mutual agreement of the governing bodies, the elections shall be held on the same date throughout the jurisdictions.

(e) The president of the board of trustees of the school district or the county judge, as applicable, shall give notice of the election in the manner provided by law for notice by the county judge of general elections.

(f) The governing body of the school district or county, as applicable, shall procure the election supplies necessary to conduct the election and shall determine the quantity of the various types of supplies to be provided for use at each precinct polling place and early voting polling place.

(g) Any qualified voter residing within the boundaries of the jurisdiction in which the tax may be levied is entitled to vote at the election.

(h) The ballot shall be printed to provide for voting for or against the proposition: "The levy of a junior college district branch campus maintenance tax in an amount not to exceed (insert a number not higher than five) cents on each $100 valuation of all taxable property in _____ ." (insert name of school district or name of county, as applicable).

(i) To be adopted, the measure must receive a favorable vote of a majority of those voting on the measure.

(j) Not later than the 10th day after the date of the election, the governing body shall canvass the returns of the election and shall enter an order declaring the result of the election.

(k) The proceeds of the junior college district branch campus maintenance tax may be used only as follows:

(1) to operate and maintain a junior college district branch campus and support its programs and services in the area of the political subdivision that levied the tax; and

(2) under an agreement by the applicable junior college district and the political subdivision levying the tax, to make lease payments to the political subdivision for facilities used exclusively by the branch campus that are owned by the political subdivision.

(*l*) The governing body of the school district or county approving the junior college district branch campus maintenance tax shall set the tax levy.

(m) The junior college district shall maintain and furnish any records and reports required by the Coordinating Board, Texas College and University System. The reports shall be made available routinely to the governing body of the jurisdiction in which the tax is levied, and to members of the general public on request.

(n) This section does not affect the authority of any jurisdiction levying a junior college district branch campus maintenance tax to create a junior college district in the jurisdiction.

(Enacted by Acts 1983, 68th Leg., ch. 409 (H.B. 793), § 1, effective August 29, 1983; am. Acts 1991, 72nd Leg., ch. 136 (S.B. 239), § 1, effective May 21, 1991; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), art. 2, § 2.78, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 49, effective May 19, 1991; am. Acts 1997, 75th Leg., ch. 287 (H.B. 722), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 776 (H.B. 1346), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 1424 (H.B. 2415), § 2, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 357 (H.B. 2474), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 357 (H.B. 2474), § 3(b) provides: "The change in law made by this Act in amending Section 130.087, Education Code, applies to the proceeds of a junior college district branch campus maintenance tax levied under Section 130.087, Education Code, without regard to whether imposition of the tax was approved by the voters or the proceeds were derived from taxes imposed before, on, or after the effective date of this Act [June 14, 2013]."

Sec. 130.088. Board of Trustees of Certain Junior College Districts.

(a) If an independent school district board that has control and management of a junior college district that contains all or part of a city with a population of more than 1,500,000 divests itself of control and management under Section 130.016 or 130.017 of this code, the appointment and election of trustees of the junior college district are subject to Sections 130.018 and 130.082 of this code, except as otherwise provided by this section.

(b) The board of trustees consists of nine members elected from trustee districts.

(c) If the board of trustees of the independent school district that divests itself of management and control of the junior college district is elected from nine single-member districts, the trustees appointed for the junior college district shall have the same initial single-member district boundaries. For the initial board members of the junior college district appointed by the independent school district board of trustees, three members shall serve terms of two years, three members shall serve terms of four years, and three members shall serve terms of six years. The trustees shall draw lots to determine the length of their terms. The terms of the initial board members shall expire on the last day of December of the odd-numbered year that does not exceed their terms.

(d) Each trustee district must be compact and contiguous and of a population to the extent practicable equal to other trustee districts.

(e) The general election for trustees shall be held every two years on the first Tuesday after the first Monday in November of the odd-numbered year or on the uniform election date chosen by the prior board under prior law.

(f) The board of trustees of the independent school district shall designate a number for each trustee district. At each election candidates are voted on and elected separately for each trustee district, and a candidate's name is placed on the official ballot according to the number of the district for which the candidate is running.

(g) The voters of each trustee district elect one trustee.

(h) If a trustee changes residence to a location outside the district from which the trustee is elected, the trustee vacates the office. Except as provided by Subsection (i) of this section, a district boundary change that results in the trustee who represents the district no longer being a resident of the district does not affect the trustee's term. That trustee serves for the remainder of the term to which elected. If the trustee changes residence to a location that is neither in the district as it existed on the date the trustee was elected to the current term nor in the new district, the trustee's seat on the board is vacated.

(i) If a change in district boundaries occurs as a result of redistricting and places the residence of a trustee whose office is not next up for election outside the numbered district for which the trustee was elected and the trustee fails to move his residence within the new boundaries of that numbered district before the 75th day preceding the date of the first election for which the boundary changes are effective, the office is vacated and shall be filled at that election.

(j) If new territory is added to the district, the board shall temporarily assign the territory to one or more trustee districts as appropriate. Not later than the 180th day after the publication of a federal census, the board shall revise district boundaries to take account of district population changes.

(k) To be entitled to a place on the ballot, a candidate for trustee must file an application for a place on the ballot with the board secretary not later than 5 p.m. of the 45th day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(*l*) To be elected, a trustee candidate must receive a majority of the total number of votes received by all the candidates for the position. If no candidate receives the vote required for election to a position, the board shall order a runoff election to be held in accordance with the applicable provisions of the Election Code.

(m) Trustees serve for six-year staggered terms. The terms of three members expire on the last day of December of each odd-numbered year.

(n) The board shall fill by appointment a board vacancy. The remaining members of the board, not later than the 30th day after the date on which the vacancy occurs, shall select a suitable person who resides in the applicable district to fill the board vacancy until the next regular trustee election. If the board for any reason fails or refuses to appoint a person to fill the board vacancy, the board shall order an election for the purpose of filling the vacancy for the remainder of the unexpired term. The election shall be held on the next uniform election date provided by the Election Code as long as that date does not occur before the 90th day after the date on which the vacancy occurs.

(Enacted by Acts 1987, 70th Leg., ch. 556 (S.B. 726), § 1, effective September 1, 1987.)

Sec. 130.089. Prohibited Employment of or Contracting with Former Trustee.

A public junior college may not employ or contract with an individual who was a member of the board of trustees of the junior college before the first anniversary of the date the individual ceased to be a member of the board of trustees.

(Enacted by Acts 1993, 73rd Leg., ch. 56 (S.B. 591), § 1, effective September 1, 1993.)

Sec. 130.090. Remedial Programs for Secondary School Students.

(a) The governing board of a junior college district may contract with the governing board of an independent school district in the junior college district's service area for the junior college to provide remedial programs for students enrolled in secondary schools in the independent school district in preparation for graduation from secondary school and entrance into college.

(b) The governing board of a junior college district may exempt from tuition a student enrolled in a remedial program provided under Subsection (a).

(c) The grant of an exemption from tuition under Subsection (b) does not affect the right of a junior college to a proportionate share of state appropriations under Section 130.003 attributable to the contact hours of the junior college with the student receiving the exemption.

(d) For instances when state funding is provided to both a school district and a public junior college for a student enrolled in courses offered by a junior college under Subsection (a), the commissioner of education and the commissioner of higher education shall jointly develop a mechanism to identify and eliminate duplication of state funding.

(Enacted by Acts 1995, 74th Leg., ch. 196 (H.B. 1337), § 1, effective May 23, 1995.)

SUBCHAPTER F
SPECIAL PROGRAMS OPERATED BY CERTAIN JUNIOR COLLEGE DISTRICTS

Sec. 130.091. Definition.

In this chapter "institution of higher education" has the meaning assigned by Section 61.003.

(Enacted by Acts 2007, 80th Leg., ch. 1045 (H.B. 2074), § 1, effective June 15, 2007.)

Sec. 130.092. East Williamson County Multi-Institution Teaching Center.

(a) The Temple Junior College District may establish, in conjunction with at least one of the following institutions, the East Williamson County Multi-Institution Teaching Center:

(1) Tarleton State University;

(2) Tarleton State University System Center—Central Texas;

(3) Texas State Technical College—Waco; or

(4) another public or private institution of higher education.

(b) The center shall provide coordinated higher education opportunities to the residents of the region in which the center is located by offering academic credit courses and programs from the member institutions of the center. The center must be administered under a formal agreement entered into by the Temple Junior College District with the other member institutions.

(c) The member institutions of the center shall work with the local community to identify and offer courses that will meet the educational and workforce development goals for the region served by the center.

(d) The member institutions of the center may, under the terms of the formal agreement, make provisions for adequate physical facilities for use by the center.

(e) The member institutions of the center may solicit, accept, and administer, on terms and conditions acceptable to the members, gifts, grants, or donations of any kind and from any source for use by the center.

(f) A member institution of the center, a political subdivision, an entity created by a political subdivision, or a nonprofit corporation may individually or jointly, under the terms of an agreement under Subsection (d), finance or refinance the acquisition, purchase, construction, improvement, renovation, enlargement, or equipping of physical facilities described by Subsection (d) through the issuance of bonds, notes, or other obligations. The financing of facilities under this subsection may be made through a long-term agreement with another member institution, political subdivision, or other entity described by this subsection, or through a guarantee of any bond, note, or other obligation. Any bond, note, or other obligation issued or a long-term agreement or guarantee made under this subsection may not exceed a term of 40 years.

(g) Any bond, note, or other obligation issued or long-term agreement or guarantee made under Subsection (f) may be pledged as security for and used towards the payment of any bond, note, or other obligation issued for the benefit of the center. A bond, note, or other obligation issued or long-term agreement or guarantee made under Subsection (f) is not subject to annual appropriation.

(h) The financing of facilities under this section promotes the public purpose of supporting higher education and further promotes the public purpose of developing and diversifying the economy of this state and eliminating unemployment and underemployment in this state under the authority granted by Section 52-a, Article III, Texas Constitution.

(i) A member institution of the center, political subdivision, entity created by a political subdivision, or nonprofit corporation may pledge irrevocably to the payment of bonds, notes, or other obligations issued or a long-term agreement or guarantee made under Subsection (f), and to the extent permitted by law, all or any part of the available revenues, taxes, or any combination of revenues and taxes of the member institution, political subdivision, entity, or nonprofit corporation. The amount of a pledge made under this subsection may not be reduced or abrogated while any bonds, notes, or obligations for which the pledge is made, or bonds, notes, or other obligations issued to refund those bonds, notes, or obligations, are outstanding.

(j) An agreement providing for bonds, notes, or other obligations, or a long-term agreement or guarantee, under Subsection (f) may provide for a member institution, political subdivision, entity created by a political subdivision, or nonprofit corporation to have an ownership or other interest in the facilities to be financed by the bonds, notes, or obligations, or long-term agreements or guarantees, or to participate in the operation of the facility.

(k) A member institution of the center, political subdivision, entity created by a political subdivision, or nonprofit corporation may use an entity created under Chapter 53 or 53A to accomplish the purposes of this section.

(*l*) This section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A member institution of the center, political subdivision, entity created by a political subdivision, or nonprofit corporation may use any law not in conflict with this section to the extent convenient or necessary to

carry out any power or authority, expressed or implied, granted by this section.
(Enacted by Acts 2007, 80th Leg., ch. 1045 (H.B. 2074), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 703 (H.B. 2805), § 1, effective June 19, 2009.)

Sec. 130.093. Election [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971; am. Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 4(k), effective January 1, 1982.)

Sec. 130.094. Canvass of Returns and Declaration of Result; Effect of Vote [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.095. Board of Regents [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.096. Property, Funds and Resources of Junior College District; Contracts [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.097. Assessed Tax Values and Scholastic Census; Number of Regents; Conduct of Election; Vacancies; Organization of Board; Meetings; Office [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.098. Rules of Procedure; Quorum; Seal; Suits [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.099. Compensation and Expenses of Board [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.100. Powers of Board [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.101. Annexation of Contiguous County or Independent Districts [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.102. Taxes [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.103. President of College [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.104. Establishment of College; Divisions; Support [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.105. Buildings, Property and Resources of Junior College District; Fees and Tuition; Tax Levy; Bonds [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.106. Donations, Gifts, and Endowments [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.

(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.107. Power of Eminent Domain [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.108. Delinquent Taxes after Transfer of Assets [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

Sec. 130.109. Transfer of Assets of Certain Regional College Districts [Repealed].

Repealed by Acts 1985, 69th Leg., ch. 302 (S.B. 675), § 3, effective June 7, 1985.
(Enacted by Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971.)

SUBCHAPTER G
FISCAL PROVISIONS

Sec. 130.121. Tax Assessment and Collection.

(a) The governing board of each junior college district, and each regional college district, for and on behalf of its junior college division, annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in this section, and any method adopted shall remain in effect until changed by the board.

(b) Each governing board shall be authorized to have the taxable property in its district assessed and/or its taxes collected, in whole or in part, by the tax assessors and/or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the junior college district is located.

(c) The governing board of a joint county junior college district shall be authorized to have the taxable property in its district assessed or its taxes collected, in whole or in part, by the tax assessors or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the joint county junior college district is located. The tax assessors or tax collectors of a governmental subdivision, on the request of the governing board of a joint county junior college district, shall assess and collect the taxes of the joint county junior college district in the manner prescribed in the Property Tax Code. Tax assessors and tax collectors shall receive compensation in an amount agreed on between the appropriate parties, but not to exceed two percent of the ad valorem taxes assessed.
(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.101); am. Acts 1977, 65th Leg., ch. 198 (H.B. 1126), § 1, effective May 20, 1977; am. Acts 1979, 66th Leg., ch. 841, § 4(k), effective January 1, 1982.)

Sec. 130.122. Tax Bonds and Maintenance Tax.

(a) The governing board of each junior college district, and each regional college district for and on behalf of its junior college division, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, and to levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges; provided that the annual bond tax shall never exceed 50 cents on the $100 valuation of taxable property in the district, and the annual bond tax, if any, together with the annual maintenance tax shall never exceed the aggregate of $1 on the $100 valuation of taxable property in the district. Such bonds may be issued in various series or issues, and shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said bonds, and the interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said bonds. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest.

(b) No such bonds shall be issued and none of the aforesaid taxes shall be levied unless authorized by a majority of the electors voting at an election held for such purpose in accordance with law, at the expense of the district. Each such election shall be called by resolution or order of the board, which shall set forth the date of the election, the proposi-

tion or propositions to be submitted and voted on, the polling place or places, and any other matters deemed necessary or advisable by the board. Notice of said election shall be given by publishing a substantial copy of the election resolution or order one time, at least 10 days prior to the date set for the election, in a newspaper of general circulation in the district. The board shall canvass the returns and declare the results of such election.

(c) The governing board of each junior college district, and each regional college district, shall be authorized to refund or refinance all or any part of any of its outstanding bonds and matured but unpaid interest coupons payable from ad valorem taxes by the issuance of negotiable coupon refunding bonds payable from ad valorem taxes. Said refunding bonds shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said refunding bonds may be issued without an election in connection therewith, provided that in no event shall any series or issue of refunding bonds be issued in a principal amount greater than the face or par value of the obligations being refunded thereby, and provided that if a maximum interest rate was voted for the bonds being refunded, the refunding bonds shall not bear interest at a rate higher than such voted maximum rate. Said refunding bonds, and the interest coupons appurtenant thereto, shall be negotiable instruments and they may be made redeemable prior to maturity, and may be issued in such form, denomination, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said refunding bonds. The refunding bonds shall be issued and delivered in lieu of, and upon surrender to the Comptroller of Public Accounts of the State of Texas and cancellation of, the obligations being refunded thereby, and the comptroller of public accounts shall register the refunding bonds and deliver the same in accordance with the provisions of the resolution or order authorizing the refunding bonds. Such refunding may be accomplished in one or in several installment deliveries. Said refunding bonds also may be issued and delivered in accordance with the provisions of and procedures authorized by any other applicable law.

(d) All bonds issued pursuant to this section, and the appropriate proceedings authorizing their issuance, shall be submitted to the attorney general of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(e) All bonds issued pursuant to this section shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

(f) Each junior college district, and each regional college district (with reference to the operation and maintenance of its junior college division) heretofore or hereafter created pursuant to the laws of this state, is hereby declared to be, and constituted as, a school district within the meaning of Article VII, Section 3, of the Texas Constitution.

(g) All tax bonds voted in any district in accordance with law but unissued at the effective date of this code may be issued in the manner provided in this section, without an additional election; and all maintenance taxes heretofore voted in any district in accordance with law may be levied and collected in the manner provided in this act, without an additional election.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.102).)

Sec. 130.1221. Credit Agreements in Certain Junior College Districts.

(a) This section applies only to a junior college district that, at the time of the issuance of obligations and execution of credit agreements under this section, has:

(1) at least 2,000 full-time students or the equivalent; or

(2) a combined aggregate principal amount of at least $50 million of outstanding bonds and voted but unissued bonds.

(b) A district to which this section applies may, in the issuance of bonds as provided by Section 130.122, exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and execution of credit agreements under Chapter 1371, Government Code.

(c) A proposition to issue bonds to which this section applies must include the question of whether the governing board may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds and the costs of any credit agreements executed in connection with the bonds.

(d) A district may not issue bonds to which this section applies in an amount greater than the greater of:

(1) 25 percent of the sum of:

(A) the aggregate principal amount of all district debt payable from ad valorem taxes that is outstanding at the time the bonds are issued; and

(B) the aggregate principal amount of all bonds payable from ad valorem taxes that have been authorized but not issued;

(2) $25 million, in a district that has at least 3,500 but not more than 15,000 full-time students or the equivalent; or

(3) $50 million, in a district that has more than 15,000 full-time students or the equivalent.

(e) Sections 1371.057 and 1371.059, Government Code, govern approval by the attorney general of obligations issued under the authority of this section.

(Enacted by Acts 1999, 76th Leg., ch. 1536 (S.B. 1091), § 4, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.224, effective September 1, 2001.)

Sec. 130.123. Revenue Bonds.

(a) The governing board (hereinafter called the "board") of each junior college district and each regional college district shall be authorized and have the power to acquire, purchase, construct, improve, enlarge, equip, operate, and/or maintain any property, buildings, structures, activities, operations, or facilities, of any nature, for and on behalf of its institution or institutions.

(b) For the purpose of carrying out any one or more of the aforesaid powers each board shall be authorized to issue its revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, fees, or other resources of such board, in the manner hereinafter provided. Said bonds may be issued to mature serially or otherwise not more than 50 years from their date. In the authorization of any such bonds, each board may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other types of bonds, under such terms or conditions as may be set forth in the resolution or order authorizing the issuance of said bonds, all within the discretion of the board. Said bonds, and any interest coupons appertaining thereto, shall be negotiable instruments (provided that such bonds may be issued registrable as to principal alone or as to both principal and interest), and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rate or rates, as shall be determined and provided by the board in the resolution or order, authorizing the issuance of said bonds. If so permitted in the bond resolution, and required part of the proceeds from the sale of the bonds may be used for paying interest thereon during the period of the construction of any facilities to be provided through the issuance of said bonds, and for the payment of operation and maintenance expenses of said facilities to the extent, and for the period of time, specified in said bond resolution, and also for the creation of reserves for the payment of the principal of and interest on the bonds; and such moneys be invested, until needed, to the extent, and in the manner provided, in said bond resolution or order.

(c) Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board.

(d) Each board shall be authorized to pledge all or any part of any of its revenues from any of the aforesaid rentals, rates, charges, and/or fees to the payment of any bonds issued hereunder, including the payment of principal, interest, and any other amounts required or permitted in connection with said bonds. When any of the revenues from any such rentals, rates, charges, and/or fees are pledged to the payment of bonds, they shall be fixed and collected in such amounts as will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with said bonds, and, to the extent required by the resolution or order authorizing the issuance of said bonds, to provide for the payment of operation, maintenance, and other expenses. Each board shall be authorized to estab-

lish and enforce such parietal rules for students and others, and to enter into such agreements regarding occupancy, use, and availability, and the amounts and collection of pledged revenues, fees, or other resources as will assure making all said required payments. Fees for the use or availability of all or any property, buildings, structures, activities, operations, or facilities, of any nature, may be pledged to the payment of said bonds, and shall be fixed and collected from all or any designated part of the students enrolled in the institution or institutions, in such amounts and in such manner as shall be determined and provided by the board in the resolution or order authorizing the issuance of the bonds, and said fees may be collected in the full amounts required or permitted herein, without regard to actual use or availability, commencing at any time designated by the board. Said fees may be fixed and collected for the use or availability of any specifically described property, buildings, structures, activities, operations, or facilities, of any nature; or said fees may be fixed and collected as general fees for the general use or availability of the institution or institutions. Such specific and/or general fees may be fixed and collected and pledged to the payment of any issue or series of bonds issued hereunder, in the full amounts required or permitted herein, in addition to, and regardless of the existence of, any other specific or general fees at the institution or institutions; provided that each board may restrict its power to pledge such additional specific or general fees in any manner that may be provided in the resolution or order authorizing the issuance of any bonds issued hereunder, and provided that no such additional specific fees shall be pledged if prohibited by any resolution or order which authorized the issuance of any then outstanding bonds issued pursuant to any Texas statute.

(e) In addition to the revenues, fees, and other resources authorized to be pledged to the payment of bonds issued hereunder, each board further shall be authorized to pledge irrevocably to such payment, out of the tuition charges required or permitted by law to be imposed at its institution or institutions, an amount not exceeding 25 percent of the tuition charges collected from each enrolled student for each semester or term, and each board also shall be authorized to pledge to such payment all or any part of any grant, donation, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

(f) Any revenue bonds issued by any such board under this act, and any revenue bonds or notes issued by any such board under any other Texas statute and payable from tuition fees and charges and/or any part of the use fees from or revenues of any property, buildings, structures, activities, operations, or facilities at the institution or institutions, may be refunded or otherwise refinanced by such governing board, and in such case all pertinent and appropriate provisions of this section shall be fully applicable to such refunding bonds. In refunding or otherwise refinancing any such bonds or notes the governing board may, in the same authorizing proceedings, refund or refinance bonds issued pursuant to this section and bonds or notes issued pursuant to any other such Texas statute and combine all said refunding bonds and any other additional new bonds to be issued pursuant to this section into one or more issues or series of bonds, and may provide for the subsequent issuance of additional parity bonds, or subordinate lien bonds, or other type of bonds. All refunding bonds shall be issued and delivered under such terms and conditions as may be set forth in the authorizing proceedings.

(g) All bonds permitted to be issued under this section, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(h) All bonds issued under this section shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, small business investment corporations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

(i) All revenue bonds heretofore approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas which were issued, sold, and delivered

by any board, and which are payable from or secured by a pledge of any revenues, use fees, tuition, or other resources of such board, are hereby validated in all respects, together with all proceedings authorizing the issuance thereof, and said bonds and proceedings shall be valid as though they had been duly and legally issued and authorized originally. (Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from 51.103); am. Acts 1999, 76th Leg., ch. 113 (H.B. 1488), § 2, effective May 17, 1999; am. Acts 2003, 78th Leg., ch. 1070 (H.B. 1621), § 2, effective June 20, 2003.)

Sec. 130.124. Use of Student Fees in Construction.

(a) A junior college district facility constructed with student fees may be used only for junior college purposes.

(b) Student fees may not be used for construction, repair, or rehabilitation of a community center or junior college district auxiliary enterprise unless the enterprise serves as a student center or dormitory. (Enacted by Acts 1983, 68th Leg., ch. 319 (H.B. 101), § 2, effective June 16, 1983.)

Sec. 130.125. Revenue Obligations.

(a) As used in this section:

(1) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase obligations, purchase or sale agreement, or commitment or other contract or agreement authorized and approved by the governing body of the issuer in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of obligations or interest thereon.

(2) "Eligible project" means any project or purpose for which an issuer is authorized to issue revenue bonds pursuant to Section 130.123 of this code or any other provision of law.

(3) "Governing body" means the governing board of an issuer.

(4) "Issuer" means a junior college district or a regional college district.

(5) "Obligations" means notes, warrants, or other special obligations authorized to be issued by an issuer under the provisions of this section and all "public securities" as defined by Section 1201.002, Government Code, which prior to the delivery thereof, have been rated by a nationally recognized rating agency for municipal securities in either one of the three highest ranking categories for short-term obligations or one of the four highest ranking categories for long-term obligations. It is provided, however, that the term "obligations" does not mean or include any obligations payable from ad valorem taxes.

(6) "Project costs" means all costs and expenses incurred in relation to an eligible project, including without limitation design, planning, engineering, and legal costs, acquisition costs of land, interest in land, rights-of-way, and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an eligible project, and financing costs, including interest during construction and thereafter, underwriter's discount and fees for legal, financial, and other professional services. Project costs attributable to an eligible project and incurred prior to the issuance of any obligations issued to finance an eligible project may be reimbursed from the proceeds of sale of obligations.

(b) The governing body of an issuer is hereby authorized and empowered to issue, sell, and deliver obligations and execute credit agreements in order to finance project costs of an eligible project or to refund obligations issued in connection with an eligible project, subject to the limitations contained herein. Obligations shall be secured solely by: (1) the proceeds of sale of other obligations; (2) any revenues which the issuer is authorized by any statute or constitutional provision to pledge to the payment of any obligations; or (3) any one or more of such sources, including credit agreements, all as the governing body of the issuer shall provide in the resolution or order authorizing the issuance of the obligations. Obligations shall be repaid from the source or sources securing the payment thereof, funds received from a credit agreement, or from any other revenues otherwise legally available for the payment thereof, except funds derived from ad valorem taxation.

(c) The issuance of obligations shall be authorized by resolution or order of the governing body of an issuer, which resolution or order shall fix the maximum amount of obligations to be issued or, if applicable, the maximum principal amount which may be outstanding at any time, the maximum term obligations issued and delivered pursuant to such authorization shall be outstanding, the maximum interest rate to be borne by the obligations (within the limitations of Chapter 1204, Government Code), the manner of sale (which may be by either public or private sale), price, form, terms, conditions, and covenants thereof. The resolution or order authorizing the issuance of obligations may provide for the

designation of a paying agent and registrar for the obligations and may authorize one or more designated officers or employers of the issuer to act on behalf of the issuer from time to time in the selling and delivering of obligations authorized and fixing the dates, price, interest rates, interest payment periods, and other procedures as may be specified in the resolution or order. Obligations may be issued in such form or such denomination, payable at such time or times, in such amount or amounts or installments, at such place or places, in such form, under such terms, conditions, and details, in such manner, redeemable prior to maturity at any time or times, bearing no interest, or bearing interest at any rate or rates (either fixed, variable, floating, adjustable, or otherwise, all as determined in accordance with the resolution or order providing for the issuance of the obligations, which resolution or order may provide a formula, index, contract, or any other arrangement for the periodic determination of interest rates), not to exceed the maximum net effective interest rate allowed by law and may be signed or otherwise executed in such manner, with manual or facsimile signatures, and with or without a seal, all as shall be specified by the governing body of the issuer in the resolution or order authorizing the issuance of the obligations. The proceeds received from the sale of obligations may be deposited or invested in any manner and in such obligations as may be specified in the resolution or order or other proceedings authorizing the obligations. In the event any officer or officers whose signatures are on any obligations cease to be such officer or officers before the delivery thereof to the purchaser, such signature or signatures shall nevertheless be valid and sufficient for all purposes and the successor or successors in office of any such officers shall be fully authorized to complete the execution, authentication, or delivery of said obligations to the purchaser or purchasers thereof.

(d) The governing body of an issuer may enter into credit agreements in conjunction with the issuance, payment, sale, resale, or exchange of obligations to enhance the security for or provide for the payment, redemption, or remarketing of the obligations and interest on the obligations or to reduce the interest payable on the obligations. A credit agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the governing body of the issuer approves. The cost to the issuer of the credit agreement may be paid from the proceeds of the sale of the obligations to which the credit agreement relates or from any other source, including revenues of the issuer that are available for the purpose of paying the obligations and the interest on the obligations or that may otherwise be legally available to make those payments.

(e) Obligations, including accrued interest, may from time to time be refinanced, renewed, or refunded by the issuance of other obligations. Credit agreements entered into by an issuer, whether pursuant to the provisions of this section or not, may be refinanced, renewed, refunded, or otherwise terminated and a new credit agreement substituted therefor by amendment to the proceedings which authorized such credit agreements and, if required to accomplish the substitution of credit agreements, outstanding bonds may be refunded with obligations.

(f) Preliminary to the issuance and delivery of obligations, the resolution or order authorizing the issuance thereof, together with any credit agreements and any contracts providing revenues and security to pay the obligations, shall be submitted to the attorney general for his review. If the attorney general shall find that such credit agreement or agreements, if any, contracts, if any, and other authorizing proceedings conform to the requirements of the Texas Constitution and this section, the attorney general shall approve them. Thereafter, the authorized obligations may be executed and delivered, exchanged, or refinanced from time to time in accordance with the authorizing proceedings. Upon such approval by the attorney general and initial delivery of any obligations so authorized, any such credit agreements, any such contracts providing revenues or security, such initial obligations, and all other obligations thereafter issued pursuant to the authorizing proceedings shall be incontestable for any cause in any court or other forum and shall be valid and binding obligations enforceable in accordance with their respective terms and provisions.

(f-1) The governing body of an "eligible issuer" may enter into credit agreements as described in Subsection (d). As used in this subsection, "eligible issuer" means an issuer that prior to the effective date of this subsection (i) issued bonds which, prior to or simultaneously with the delivery thereof, were rated by a nationally recognized rating agency for municipal securities in one of the four highest ranking categories for long-term obligations, and (ii) reserved in the resolution or order authorizing issuance of the bonds the right, in the event of a change in state law, to substitute a credit agreement in lieu of cash and investments in a reserve fund established pursuant to the resolution or order.

(g) All obligations issued by an issuer shall constitute negotiable instruments and are investment securities governed by Chapter 8, Business & Commerce Code, notwithstanding any provisions of law or court decision to the contrary and are legal and

authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees and for the sinking funds of cities, towns, villages, school districts, and other political subdivisions or public agencies of the State of Texas. Said obligations also are eligible to secure deposits of any public funds of the state or any political subdivision or public agency of the state and are lawful and sufficient security for the deposits to the extent of their market value.

(h) This section shall be construed liberally to effectuate the legislative intent and purposes of this section and all powers herein granted shall be broadly interpreted to effectuate such intent and purposes and not as a limitation of powers.

(i) In case any one or more of the provisions, clauses, or words of this section or the application of such provisions, clauses, or words to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this section or the application of such provisions, clauses, or words to any other situation or circumstance, and it is intended that this section shall be severable and shall be construed and applied as if any such invalid or unconstitutional provision, clause, or word had not been included herein.

(j) This section shall be cumulative of all other laws on the subject, but this section shall be wholly sufficient authority within itself for the issuance of obligations and the performance of the other acts and procedures authorized hereby, or under any agreement, without reference to any other laws or any restrictions or limitations contained herein. To the extent of any conflict or inconsistency between any provisions of this section and any provisions of any other law, the provisions of this section shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws not in conflict with the provisions hereof to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.

(k) When the governing body of any issuer provides in the resolution or order or other proceedings authorizing the issuance of any bond, any credit agreement, or any other agreement for a pledge or lien on revenues, income, or other resources of the issuer, or the assets of the issuer, or any fund maintained by the issuer to secure payment of the obligations or to secure payments required by a credit agreement or any other agreement, such pledge or lien shall be valid and binding in accordance with its terms without further action on the part of the issuer and without any filing or recording with respect thereto except in the records of the issuer. All such liens and pledges shall be perfected from the time of payment for and delivery of the obligations and the credit agreement or other agreement until the obligations or other payments, including those under the credit agreement, have been paid or payment of the obligations has been provided for or the terms of the credit agreement or other agreement have been satisfied in accordance with their respective terms and such lien shall be fully perfected as to items then on hand and thereafter received until the satisfaction of such obligations, and said items shall be subject to such liens or pledges without any physical delivery thereof or further act. Nothing contained in this section shall relieve any issuer of any obligation to file or record any lien on realty or submit any issue of obligations for approval by the attorney general and registration by the comptroller of public accounts.

(Enacted by Acts 1987, 70th Leg., ch. 1075 (S.B. 899), § 1, effective June 20, 1987; am. Acts 1995, 74th Leg., ch. 490 (S.B. 1549), §§ 1, 2, effective August 28, 1995; am. Acts 1995, 74th Leg., ch. 490 (S.B. 1549), § 2, effective August 28, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, §§ 8.225, 8.226, effective September 1, 2001.)

Sec. 130.126. Long-Term Notes.

(a) The governing board of a public junior college district or regional college district located in one or more counties having a total population of at least 100,000 according to the last preceding federal census may issue notes to pay expenses of asbestos cleanup and removal in the district.

(b) Notes issued under this section must be secured by a designated portion of the issuer's revenues, which may include ad valorem maintenance taxes, and must mature not later than the first day of the 15th year after the date on which the notes are issued.

(c) A note issued under this section is debt under Section 26.012, Tax Code.

(d) Except as provided by Subsection (b) of this section, the governing board of a public junior college district or regional college district must issue the notes in the manner provided by Chapter 1201, Government Code.

(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 15, effective May 19, 1991;Am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.227, effective September 1, 2001.)

Sec. 130.127. Refunding Notes.

The governing board of a public junior college district or regional college district may issue refund-

ing notes to refund notes issued under Section 130.126 of this code in the manner and for the purposes provided by Subchapter A, Chapter 1207, Government Code, to make a deposit under Subchapter B or C of that chapter.
(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 15, effective May 19, 1991; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.228, effective September 1, 2001.)

Sec. 130.128. Sale of Notes.

(a) The governing board of a public junior college district or regional college district may sell notes or refunding notes issued under this subchapter at a public or private sale and at a price that the board determines is adequate.

(b) The governing board of a public junior college district or regional college district shall deposit proceeds from the sale of notes issued under this subchapter in the district's general revenue fund.

(c) Proceeds from the sale of notes issued under this subchapter may be used to pay the costs of issuing, marketing, or distributing the notes.
(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 15.01, effective August 22, 1991.)

Sec. 130.129. Interest Rate.

Notes and refunding notes issued under this subchapter must bear interest at a rate not to exceed the rate provided by Chapter 1204, Government Code.
(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 15, effective May 19, 1991; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), art. 8, § 8.228, effective September 1, 2001.)

Sec. 130.130. Notes Are Not Tax Bonds.

Notes and refunding notes issued under this subchapter are not tax bonds under Section 130.122 of this code, and an election is not required before the governing board of a public junior college district or regional college district may issue such notes or refunding notes.
(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 4 (S.B. 3), § 15.01, effective August 22, 1991.)

SUBCHAPTER H
TRANSFER OF ASSETS ON DISSOLUTION OF DISTRICTS

Sec. 130.131. Dissolution and Transfer of Property Upon Creation of Senior College.

(a) Whenever the legislature shall create within the boundary of any union junior college district a state-supported senior college of the first rank offering at least four years of college work, and whenever such union junior college district has been dissolved in the manner provided for in Sections 19.361-19.364 of this code, which said method of dissolution of such district is hereby authorized, the trustees of such union junior college district shall transfer the corporeal properties and facilities of such union junior college district to such state-supported senior college, and such trustees, after such dissolution and transfer of properties of such district, shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this section and shall have no authority to create any additional indebtedness against such district, and when the bonded indebtedness of such district has been fully paid, such union junior college district shall cease to exist; provided that in the order calling such election and in the notice thereof, the authorities calling such election shall designate the date when such district shall be dissolved and such transfer shall be made, which date shall be within two years from the date of the election, and on or prior to said date.

(b) When any union junior college district has been dissolved and its properties transferred as provided in Subsection (a) of this section, or in any other lawful manner, having at the time of such dissolution outstanding bonds or other indebtedness enforceable either at law or in equity, then the county commissioners court, for the purpose of paying such bonds, or other indebtedness, shall have power and be authorized to annually levy and collect ad valorem taxes sufficient only to pay the interest and create a sinking fund to retire the bonded indebtedness of such district, and the expense of collecting such taxes and paying such bonded indebtedness, and for no other purpose; provided such tax shall not exceed the rate voted by such district for junior college purposes; said county commissioners court shall have power to bring and defend litigation in the name of said union junior college district.
(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.201).)

Sec. 130.132. Abolition of Junior College Districts.

(a) The term "applicable district," as used in this section, shall mean any junior college district which has conveyed all, or substantially all, of its property and assets to a state-supported senior college or university located in such junior college district, and

which junior college district has no outstanding bonded indebtedness.

(b) All applicable districts and their governing boards are hereby abolished and shall cease to exist and function; provided, however, that all delinquent and uncollected taxes in said applicable districts shall not hereby be discharged, but shall be and remain fully due, payable and collectible. The persons formerly acting as the governing board and officers of each applicable district shall turn over all remaining property and assets of said applicable district, including all tax collections on hand, directly to the state-supported senior college or university located therein. The governing board of the independent school district in which any such state-supported senior college or university is located shall, for and on behalf of any such applicable district, cause, through its tax collector and other officers, all delinquent and uncollected taxes of any such applicable district to be collected in accordance with the general laws applicable to independent school districts. All of said taxes, as collected, shall be turned over to any such state-supported senior college or university. All taxes turned over to any such state-supported senior college or university in accordance with this section may be used by it for any lawful purpose.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971, 62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.202).)

Sec. 130.133. Transfer of Properties of County Junior College Districts After Creation of Senior College.

(a) Whenever the legislature has created or shall create within the boundaries of any county junior college district a state-supported senior college offering at least four years college work upon the condition that the board of trustees of said county junior college district shall convey all of the assets, real, personal, tangible, and intangible held in its name as of the date fixed for the establishment of said senior college and containing the other provision that said properties shall be conveyed to the governing body of the senior college free and clear of any indebtedness or indebtednesses, encumbrance or encumbrances of any kind or character and of whatsoever nature, the board of trustees of said county junior college district is hereby fully authorized and empowered to convey to the governing body of the senior college all of such assets, real, personal, tangible, and intangible held by it on the date fixed for such conveyance in the act creating such senior college, except moneys on hand for the payment of outstanding obligations of the district.

(b) From and after the conveyance of the properties of said county junior college district to the governing body of said senior college, the county junior college district shall not further maintain a junior college and shall function only for the purpose of carrying out the provisions of this section.

(c) Where such county junior college district had or has outstanding tax obligations in the nature of bonds or other indebtedness, the board of trustees of said county junior college district shall continue to make the necessary tax levies annually for the purpose of paying necessary administrative expenses of the board of trustees and paying off and discharging such bonded or other indebtedness, both principal and interest, until all of the same has been fully paid off and discharged.

(d) Where said county junior college district has outstanding any bonds payable from the revenues from any building or buildings which revenue bonds constitute an encumbrance upon the income of such building or buildings, the board of trustees of the county junior college district is hereby authorized to issue bonds of said county junior college district payable from ad valorem taxes of said district and to sell such tax-supported bonds and pay off such revenue bonds or to exchange such tax-supported bonds for said revenue bonds. No such tax-supported bonds shall be issued, however, until authorized at an election held for that purpose and at which election a majority voting thereon shall have voted in favor of the issuance of said bonds.

(e) The board of trustees of the county junior college district is hereby authorized to perform all acts necessary toward the final discharge of all the indebtedness of said county junior college district and to perform all necessary administrative acts in connection therewith. Said board of trustees is specifically authorized to continue to levy and collect sufficient taxes annually within the limits prescribed by law and authorized by the required election for the purpose of discharging the principal and interest on all outstanding bonded and other indebtedness, including the repayment of any temporary loans which said board may find necessary to obtain in order to pay all current operating expenses of the junior college up to the date of the conveyance of the properties until all such obligations have been fully discharged, and such temporary loans are hereby authorized, and such temporary loans heretofore obtained are hereby ratified and validated.

(Enacted by Acts 1969, 61st Leg., ch. 889 (H.B. 534), § 1, effective September 1, 1969; am. Acts 1971,

62nd Leg., ch. 1024 (H.B. 1657), art. 1, § 1, effective September 1, 1971 (renumbered from Sec. 51.203).)

SUBCHAPTER I
EDUCATIONAL OPPORTUNITIES FOR DISADVANTAGED STUDENTS

Sec. 130.151. Purpose.

It is the purpose of this subchapter to enable each junior college which fulfills the provisions of this subchapter to provide useful and meaningful educational programs for any person 17 years of age or older with a high school diploma or its equivalent, or for any person 18 years of age regardless of prior educational experience, cultural background, or economic resources.

(Enacted by Acts 1973, 63rd Leg., ch. 243 (S.B. 356), § 1, effective June 11, 1973.)

Sec. 130.152. Criteria for Programs for the Disadvantaged [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(24), effective June 17, 2011.

(Enacted by Acts 1973, 63rd Leg., ch. 243 (S.B. 356), § 1, effective June 11, 1973.)

TITLE 4
COMPACTS

CHAPTER 160
REGIONAL EDUCATION COMPACT

Section

Sec. 160.01. State Policy.

It is declared to be the policy of the State of Texas to promote the development and maintenance of regional educational services and facilities in the Southern States in the professional, technological, scientific, literary, and other fields so as to provide greater educational advantages for the citizens of the State of Texas and the citizens of the States in the Southern Region. This policy can best be accomplished under the plan embodied in the regional compact entered into by the State of Texas and thirteen other States February 8, 1948, through their respective Governors.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective August 30, 1971.)

Sec. 160.02. Text of Compact.

The regional education compact, as amended, reads as follows:

THE REGIONAL COMPACT
(As amended)

WHEREAS, The States who are parties hereto have during the past several years, conducted careful investigation looking toward the establishment and maintenance of jointly owned and operated regional educational institutions in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region; and

WHEREAS, Meharry Medical College of Nashville, Tennessee, has proposed that its lands, buildings, equipment, and the net income from its endowment be turned over to the Southern States, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental and nursing education upon terms and conditions to be hereafter agreed upon between the Southern States and Meharry Medical College; which proposal, because of the present financial condition of the institution has been approved by the said States who are parties hereto; and

WHEREAS, The said States desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities; now,

THEREFORE, In consideration of the mutual agreements, covenants and obligations assumed by the respective States who are parties hereto (hereinafter referred to as "States"), the said several States do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting States, which, for the purpose of this Compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent States and derived from other sources for the establishment, acquisition, operation and maintenance of regional educational schools and institutions, for the benefit of citizens of the respective States residing within

the region so established, as may be determined from time to time in accordance with the terms and provisions of this Compact.

The States do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional Education (hereinafter referred to as the "Board"), the members of which Board shall consist of the Governor of each State, ex officio, and four additional citizens of each State to be appointed by the Governor thereof, at least one of whom shall be selected from the field of education and at least one of whom shall be a member of the Legislature of that State. The Governor shall continue as a member of the Board during his tenure of office as Governor of the State but the members of the Board appointed by the Governor shall hold office for a period of four (4) years except that in the original appointments one Board member so appointed by the Governor shall be designated at the time of his appointment to serve an initial term of two (2) years, one Board member to serve an initial term of three (3) years, and the remaining Board member to serve the full term of four (4) years, but thereafter the successor of each appointed Board member shall serve the full term of four (4) years. Vacancies on the Board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the Governor for the unexpired portion of the term. The officers of the Board shall be a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and such additional officers as may be created by the Board from time to time. The Board shall meet annually and officers shall be elected to hold office until the next annual meeting. The Board shall have the right to formulate and establish by-laws not inconsistent with the provisions of this Compact to govern its own actions in the performance of the duties delegated to it, including the right to create and appoint an Executive Committee and a Finance Committee with such powers and authority as the Board may delegate to them from time to time. The Board may, within its discretion, elect as its Chairman a person who is not a member of the Board, provided such person resides within a signatory State; and upon such election such person shall become a member of the Board with all the rights and privileges of such membership.

It shall be the duty of the Board to submit plans and recommendations to the States from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the States, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the States, and to all properties and facilities used in connection therewith, shall be vested in said Board as the agency of and for the use and benefit of the said States and citizens thereof; and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative Acts of the State authorizing the creation, establishment and operation of such educational institutions.

In addition to the power and authority heretofore granted, the Board shall have the power to enter into such agreements or arrangements with any of the States and with educational institutions or agencies, as may be required in the judgment of the Board, to provide adequate services and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective States residing within the region, and such additional and general power and authority as may be vested in the Board from time to time by legislative enactment of the said States.

Any two (2) or more States who are parties of this Compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such States and to be controlled exclusively by the members of the Board representing such States, provided such agreement is submitted to and approved by the Board prior to the establishment of such institutions.

Each State agrees that, when authorized by the Legislature, it will from time to time make available and pay over to said Board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the States under the terms of this Compact, the contribution of each State at all times to be in the proportion that its population bears to the total combined population of the States who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America; or upon such other basis as may be agreed upon.

This Compact shall not take effect or be binding upon any State unless and until it shall be approved by proper legislative action of as many as six (6) or more of the States whose Governors have subscribed

hereto within a period of eighteen (18) months from the date hereof. When and if six (6) or more States shall have given legislative approval to this Compact within said eighteen (18) months period, it shall be and become binding upon such six (6) or more States sixty (60) days after the date of legislative approval by the sixth State, and the Governors of such six (6) or more States shall forthwith name the members of the Board from their States as hereinabove set out, and the Board shall then meet on call of the Governor of any State approving this Compact, at which time the Board shall elect officers, adopt by-laws, appoint committees and otherwise fully organize. Other States whose names are subscribed hereto shall thereafter become parties hereto upon approval of this Compact by legislative action within two (2) years from the date hereof, upon such conditions as may be agreed upon at the time. Provided, however, that with respect to any State whose constitution may require amendment in order to permit legislative approval of the Compact, such State or States shall become parties hereto upon approval of this Compact by legislative action within seven (7) years from the date hereof, upon such conditions as may be agreed upon at the time.

After becoming effective this Compact shall thereafter continue without limitation of time; provided, however, that it may be terminated at any time by unanimous action of the States; and provided further that any State may withdraw from this Compact if such withdrawal is approved by its Legislature, such withdrawal to become effective two (2) years after written notice thereof to the Board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing State from its obligations hereunder accruing up to the effective date of such withdrawal. Any State so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the Board or of any of the funds of the Board held under the terms of this Compact.

If any State shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligation imposed upon said State as authorized by and in compliance with the terms and provisions of this Compact, all rights, privileges and benefits of such defaulting State, its members on the Board and its citizens, shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one year immediately following the date of such default this Compact may be terminated with respect to such defaulting State by an affirmative vote of three-fourths (¾) of the members of the Board (exclusive of the members representing the State in default), from and after which time such State shall cease to be a party to this Compact and shall have no further claim to or ownership of any of the property held by or vested in the Board or to any of the funds of the Board held under the terms of this Compact, but such termination shall in no manner release such defaulting State from any accrued obligation or otherwise affect this Compact or the rights, duties, privileges or obligations of the remaining States thereunder.

IN WITNESS WHEREOF this Compact has been approved and signed by Governors of the several States, subject to the approval of their respective Legislatures in the manner hereinabove set out, as of the 8th day of February, 1948.

STATE OF FLORIDA
By Millard F. Caldwell
Governor
STATE OF MARYLAND
By Wm. Preston Lane, Jr.
Governor
STATE OF GEORGIA
By M. E. Thompson
Governor
STATE OF LOUISIANA
By J. H. Davis
Governor
STATE OF ALABAMA
By James E. Folsom
Governor
STATE OF MISSISSIPPI
By F. L. Wright
Governor
STATE OF TENNESSEE
By Jim McCord
Governor
STATE OF ARKANSAS
By Ben Laney
Governor
COMMONWEALTH OF VIRGINIA
By William M. Tuck
Governor
STATE OF NORTH CAROLINA
By R. Gregg Cherry
Governor
STATE OF SOUTH CAROLINA
By J. Strom Thurmond
Governor
STATE OF TEXAS
By Beauford H. Jester
Governor
STATE OF OKLAHOMA
By Roy J. Turner
Governor

STATE OF WEST VIRGINIA
By Clarence W. Meadows
Governor

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective August 30, 1971.)

Sec. 160.03. Compact Approved.

The above compact is approved. The State of Texas is declared to be a party to said compact, and the agreements, covenants, and obligations contained therein are declared to be binding on the State of Texas, insofar as is permissible under the Constitution of the State of Texas.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective August 30, 1971.)

Sec. 160.04. Governor As Representative.

The State of Texas shall be represented by the governor in all matters concerning the regional education program, and he shall have all powers necessary to effectuate the purposes of the compact including the power to make contracts with the Board of Control for Southern Regional Education for the education of Texas citizens in states other than Texas.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective August 30, 1971.)

Sec. 160.041. Application of Sunset Act [Repealed].

Repealed by Acts 1989, 71st Leg., ch. 262 (H.B. 2645), § 2, effective September 1, 1989 and by Acts 1989, 71st Leg., ch. 1084 (S.B. 457), art. 4, § 4.01(1), effective September 1, 1989.

(Enacted by Acts 1977, 65th Leg., ch. 735 (S.B. 54), art. 2, § 2.155, effective August 29, 1977; am. Acts 1985, 69th Leg., ch. 479 (S.B. 813), § 204, effective September 1, 1985.)

Sec. 160.05. Enrolled Copies.

The governor shall sign an enrolled copy of this chapter and sufficient copies shall be provided to supply each state approving the compact with an enrolled copy. The governor shall sign an enrolled copy of Section 160.06 of this code for submission to the Southern Regional Education Board.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective August 30, 1971.)

Sec. 160.06. Consent to Increased Membership.

Consent is hereby given by the State of Texas to the membership of the States of West Virginia and Delaware in the Southern Regional Education Compact set out above upon the same terms and conditions as if each had signed, ratified, and approved the same as one of the original contracting states, subject to the approval of the other states party to the compact, and subject to the execution of a copy of the compact by the governor of each of the respective states of West Virginia and Delaware, and subject to the approval of the compact and acceptance of its terms, agreements, and obligations by their respective Legislatures.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective August 30, 1971.)

Sec. 160.07. Academic Common Market.

(a) The Coordinating Board, Texas College and University System, is hereby authorized to participate on behalf of the State of Texas in the interstate agreement known as the "Academic Common Market," which provides reciprocal higher educational opportunities to the citizens of states declared as parties to the Southern Regional Education Compact.

(b) The governing board of any public institution of higher education may propose programs and curricula for approval by the Coordinating Board, Texas College and University System, which are to be offered to citizens of participating states on a resident tuition or registration fee basis.

(c) [Repealed by Acts 2011, 82nd Leg., ch. 359 (S.B. 32), effective January 1, 2012.]

(Enacted by Acts 1977, 65th Leg., ch. 50 (H.B. 789), § 1, effective August 29, 1977.)

Sec. 160.08. Consent to Membership of Oklahoma.

Consent is hereby given by the State of Texas to the membership of the State of Oklahoma in the Southern Regional Education Compact set out in this chapter on the same terms and conditions as if that state had signed, ratified, and approved the compact as one of the original contracting states, subject to the approval of the other states party to the compact, and subject to the execution of a copy of the compact by the Governor of Oklahoma, and subject to the approval of the compact and acceptance of its terms, agreements, and obligations by the Oklahoma Legislature.

(Enacted by Acts 1985, 69th Leg., ch. 9 (S.B. 172), § 1, effective March 28, 1985.)

CHAPTER 161
COMPACT FOR EDUCATION

Section

Sec. 161.01. Compact Entered Into: Text.

The Compact for Education is hereby entered into and enacted into law in the form substantially as follows:

COMPACT FOR EDUCATION

ARTICLE I. PURPOSE AND POLICY

Section A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

Section B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

Section C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II. STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III. THE COMMISSION

Section A. The Education Commission of the States, hereinafter called "the Commission," is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor or his designated representative, and six shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the State education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one may be the head of a State agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

Section B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(j).

Section C. The Commission shall have a seal.

Section D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

Section E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for their personnel policies and programs of the Commission.

Section F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

Section G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

Section H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

Section I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.

Section J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV. POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.
6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V. COOPERATION WITH FEDERAL GOVERNMENT

Section A. If the laws of the United States specifically so provided, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.

Section B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI. COMMITTEES

Section A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-third of the voting membership of the steering committee shall consist of Governors, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: fifteen for one year and fifteen for two years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

Section B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States.

Section C. The Commission may establish such additional committees as its bylaws may provide.

ARTICLE VII. FINANCE

Section A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.

Section B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.

Section C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(g) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(g) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

Section D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

Section E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

Section F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII. ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

Section A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

Section B. Any State or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

Section C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31,

1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.

Section D. Except for a withdrawal effective on December 31, 1967, in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective September 1, 1967.)

Sec. 161.02. Texas Representatives.

The Texas membership to the Educational Commission of the States shall be the governor or his designated representative and six citizens of the state, including the state commissioner of education and the state commissioner of higher education, who shall be appointed and serve at the pleasure of the governor. These seven members shall officially represent Texas on the Education Commission of the States.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective September 1, 1967; am. Acts 1989, 71st Leg., ch. 1000 (H.B. 857), § 1, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 1087 (S.B. 520), § 1, effective September 1, 1989.)

Sec. 161.021. Application of Sunset Act [Repealed].

Repealed by Acts 1989, 71st Leg., ch. 1000 (H.B. 857), § 3, effective September 1, 1989 and by Acts 1989, 71st Leg., ch. 1087 (S.B. 520), § 2, effective September 1, 1989.

(Enacted by Acts 1977, 65th Leg., ch. 735 (S.B. 54), art. 2, § 2.150, effective August 29, 1977; am. Acts 1985, 69th Leg., ch. 479 (S.B. 813), § 205, effective September 1, 1985.)

Sec. 161.03. Notice of Meetings.

The governor's office shall file with the secretary of state for publication in the Texas Register a notice of the meetings of the Education Commission of the States.

(Enacted by Acts 1971, 62nd Leg., ch. 994 (H.B. 1006), § 15, effective September 1, 1967; am. Acts 1989, 71st Leg., ch. 1000 (H.B. 857), § 1, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 1087 (S.B. 520), § 1, effective September 1, 1989.)

Sec. 161.04. Annual Report.

Before October 1 of each year, the Compact for Education Commissioners for Texas shall prepare and file with the presiding officer of each house of the legislature a complete and detailed report relating to the compact describing the activities of and accounting for all funds received and disbursed by the commissioners in the preceding fiscal year. The report must be included as a part of the annual financial report of the governor's office.

(Enacted by Acts 1989, 71st Leg., ch. 1000 (H.B. 857), § 2, effective September 1, 1989; Enacted by Acts 1989, 71st Leg., ch. 1087 (S.B. 520), § 1, effective September 1, 1989.)

CHAPTER 162
INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Section

Sec. 162.001. Definitions.

In this chapter:

(1) "Compact" means the Interstate Compact on Educational Opportunity for Military Children executed under Section 162.002.

(2) "Compact commissioner" means the individual appointed under Section 162.004.

(Enacted by Acts 2009, 81st Leg., ch. 8 (S.B. 90), § 1, effective May 5, 2009.)

Sec. 162.002. Execution of Compact.

This state enacts the Interstate Compact on Educational Opportunity for Military Children and enters into the compact with all other states legally joining in the compact in substantially the following form:

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

ARTICLE I. PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in kindergarten through twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth (12th) grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth (12th) grade.

Q. "Transition" means: (1) the formal and physical process of transferring from school to school; or (2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;

2. members of the uniformed services now retired, except as provided in Section A;

3. veterans of the uniformed services, except as provided in Section A; and

4. other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records—In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts—Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations—Compacting states shall give thirty (30) days from the date of enrollment or within such time that does not exceed thirty (30) days as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time that does not exceed thirty (30) days as is reasonably determined under the rules promulgated by the Interstate Commission. The collection and exchange of

information pertaining to immunizations shall be subject to confidentiality provisions prescribed by federal law.

D. Kindergarten and first grade entrance age—Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

A. Course placement—When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement—The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: (1) gifted and talented programs; and (2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services—(1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1400 et seq.), the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and (2) In compliance with the requirements of Section 504 of the Rehabilitation Act (29 U.S.C.A. Section 794), and with Title II of the Americans with Disabilities Act (42 U.S.C.A. Sections 12131-12165), the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility—Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities—A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI. ELIGIBILITY

A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation—State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII. GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements—Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams—States shall accept: (1) exit or end-of-course exams required for graduation from the sending state; or (2) national norm-referenced achievement tests; or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, Section C, shall apply.

C. Transfers during senior year—Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this article.

The Texas commissioner of education shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a student to whom this compact applies to meet that standard as a substitute for completing a specific course or achieving a score on an assessment instrument otherwise required by this state for graduation. Each passing standard must be at least as rigorous as the applicable requirement otherwise imposed by this state for graduation, and be consistent with college readiness standards adopted under Section 28.008, Texas Education Code. Before adopting or revising a passing standard, the commissioner of education must consider any comments submitted by the Texas Higher Education Coordinating Board or the State Board of Education.

A passing standard adopted by the commissioner of education is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the 10th grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a public high school in this state remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

The commissioner of education may adopt rules as necessary to implement the commissioner's duties and authority under this article of the compact.

The Texas Higher Education Coordinating Board shall monitor the postsecondary educational performance in this state of students permitted to graduate in accordance with passing standards adopted by the commissioner of education for purposes of this compact. Based on the educational performance of those students in private and public institutions, the coordinating board shall make recommendations to the commissioner of education regarding appropriate revisions of the passing standards.

ARTICLE VIII. STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's

participation in the compact shall be appointed by the governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex-officio, non-voting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

7. Providing "start-up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or wilful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or wilful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other

appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or wilful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or wilful and wanton misconduct on the part of such persons.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority—The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure—Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Volume 15, page 1 (2000), as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, Technical Assistance, Suspension, and Termination—If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve

the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may, by majority vote of the members, initiate legal action in the U.S. District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the

member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

(Enacted by Acts 2009, 81st Leg., ch. 8 (S.B. 90), § 1, effective May 5, 2009.)

Sec. 162.003. Effect on Texas Laws.

If the laws of this state conflict with the compact or a rule adopted under that compact, the compact or rule controls, except that if a conflict exists between the compact or rule and the Texas Constitution, as determined by the courts of this state, the Texas Constitution controls.

(Enacted by Acts 2009, 81st Leg., ch. 8 (S.B. 90), § 1, effective May 5, 2009.)

Sec. 162.004. Compact Commissioner.

(a) The governor shall appoint a compact commissioner to be responsible for administration and management of this state's participation in the compact.

(b) If the compact commissioner is unable to attend a specific meeting of the Interstate Commission created under the compact, the governor shall delegate voting authority for that meeting to another individual from this state.

(c) The compact commissioner serves at the will of the governor.

(Enacted by Acts 2009, 81st Leg., ch. 8 (S.B. 90), § 1, effective May 5, 2009.)

Sec. 162.005. tate Coordination.

(a) The Texas Education Agency shall provide for coordination among state agencies, school districts, and military installations concerning this state's participation in and compliance with the compact and compact activities, as required by Article VIII of the compact.

(b) To the extent that the compact requires or authorizes a State Council created in accordance with Article VIII of the compact to perform a duty or function, the Texas Education Agency or the commissioner of education, as appropriate, shall perform that duty or function.

(Enacted by Acts 2009, 81st Leg., ch. 8 (S.B. 90), § 1, effective May 5, 2009.)

TITLE 5
OTHER EDUCATION

CHAPTER 1001
DRIVER AND TRAFFIC SAFETY EDUCATION

Subchapter A. General Provisions

Subchapter B. Powers and Duties

Subchapter C. Curriculum

Subchapter D. Fees

Subchapter E. Licensing of Schools and Course Providers

Subchapter F. Licensing of Instructors

Subchapter G. License Expiration and Renewal

Subchapter H. Practice by License Holders

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1001.001. Definitions.

In this chapter:

(1) "Agency" means the Texas Education Agency.

(2) "Approved driving safety course" means a driving safety course approved by the commissioner.

(3) "Commissioner" means the commissioner of education.

(4) "Course provider" means an enterprise that:

(A) maintains a place of business or solicits business in this state;

(B) is operated by an individual, association, partnership, or corporation; and

(C) has received an approval for a driving safety course from the commissioner or has been designated by a person who has received that approval to conduct business and represent the person in this state.

(5) "Department" means the Texas Department of Public Safety.

(6) "Driver education" means a nonvocational course of instruction that provides the knowledge and hands-on experience to prepare persons for written and practical driving tests that lead to authorization to operate a vehicle.

(7) "Driver education school" means an enterprise that:

(A) maintains a place of business or solicits business in this state; and

(B) is operated by an individual, association, partnership, or corporation for educating and training persons at a primary or branch location in driver education or driver education instructor development.

(8) "Driver training" means:

(A) driver education provided by a driver education school; or

(B) driving safety training provided by a driving safety school.

(9) "Driver training school" means a driver education school or driving safety school.

(10) "Driver training school employee" means a person, other than an owner, who directly or indirectly receives compensation from a driver training school for instructional or other services rendered.

(11) "Driver training school owner" means:

(A) in the case of a driver training school owned by an individual, the individual;

(B) in the case of a driver training school owned by a partnership, all full, silent, or limited partners; or

(C) in the case of a driver training school owned by a corporation, the corporation, its directors and officers, and each shareholder owning at least 10 percent of the total of the outstanding shares.

(12) "Driving safety course" means a course of instruction intended to improve a driver's knowledge, perception, and attitude about driving.

(13) "Driving safety school" means an enterprise that:

(A) maintains a place of business or solicits business in this state; and

(B) is operated by an individual, association, partnership, or corporation for educating and training persons in driving safety.

(14) "Instructor" means an individual who holds a license for the type of instruction being given.

(14-a) "National criminal history record information" has the meaning assigned by Section 22.081.

(15) "Person" means an individual, firm, partnership, association, corporation, or other private entity or combination of persons.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 1, effective September 1, 2011.)

Sec. 1001.002. Exemptions.

(a) An organization is exempt from this chapter if the organization:

(1) has 50,000 or more members;

(2) qualifies for a tax exemption under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(4) of that code; and

(3) conducts for its members and other individuals who are at least 50 years of age a driving safety course that is not used for purposes of Article 45.0511, Code of Criminal Procedure.

(b) A driving safety course is exempt from this chapter if the course is taught without providing a uniform certificate of course completion to a person who successfully completes the course.

(c) A driver education course is exempt from this chapter, other than Section 1001.055, if the course is:

(1) conducted by a vocational driver training school operated to train or prepare a person for a field of endeavor in a business, trade, technical, or industrial occupation;

(2) conducted by a school or training program that offers only instruction of purely avocational or recreational subjects as determined by the commissioner;

(3) sponsored by an employer to train its own employees without charging tuition;

(4) sponsored by a recognized trade, business, or professional organization with a closed membership to instruct the members of the organization; or

(5) conducted by a school regulated and approved under another law of this state.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.003. Legislative Intent Regarding Small Businesses.

It is the intent of the legislature that agency rules that affect driver training schools that qualify as small businesses be adopted and administered so as to have the least possible adverse economic effect on the schools.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.004. Cost of Administering Chapter.

(a) Except as provided by Subsection (b), the cost of administering this chapter shall be included in the state budget allowance for the agency.

(b) **[2 Versions: As added by Acts 2009, 81st Leg., ch. 1253]** The commissioner may charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.1015.

(b) **[2 Versions: As added by Acts 2009, 81st Leg., ch. 1413]** The commissioner may charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.101(a)(2).

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 3, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1413 (S.B. 1317), § 4, effective March 1, 2010.)

STATUTORY NOTES

Editor's notes. — Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 1 provides: "This Act shall be known as the Less Tears More Years Act."

Sec. 1001.006. [Expires January 1, 2014] Review of Agency Jurisdiction and Control Over Driver Education and Driving Safety Schools.

During the Sunset Advisory Commission's review of the agency under Section 7.004 concerning abolition of the agency on September 1, 2013, the commission shall review the agency's jurisdiction and control over driver education and driving safety schools and include in its report to the legislature and governor under Section 325.010, Government Code, a recommendation as to whether another state agency should have jurisdiction and control over those schools. This section expires January 1, 2014.

(Enacted by Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 2, effective September 1, 2011.)

SUBCHAPTER B
POWERS AND DUTIES

Sec. 1001.051. Jurisdiction over Schools.

The agency has jurisdiction over and control of driver training schools regulated under this chapter.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.052. Rules.

The agency shall adopt and administer comprehensive rules governing driving safety courses.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.053. Powers and Duties of Commissioner.

(a) The commissioner shall:

(1) administer the policies of this chapter;

(2) enforce minimum standards for driver training schools under this chapter;

(3) adopt and enforce rules necessary to administer this chapter; and

(4) visit a driver training school or course provider and reexamine the school or course provider for compliance with this chapter.

(b) The commissioner may designate a person knowledgeable in the administration of regulating driver training schools to administer this chapter.

(c) The commissioner may adopt rules to ensure the integrity of approved driving safety courses and to enhance program quality.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.054. Rules Restricting Advertising or Competitive Bidding.

(a) The commissioner may not adopt a rule restricting advertising or competitive bidding by a driver training school except to prohibit a false, misleading, or deceptive practice.

(b) The commissioner may not include in rules to prohibit false, misleading, or deceptive practices by a driver training school a rule that restricts:

(1) the use of an advertising medium;

(2) the outside dimensions of a printed advertisement or outdoor display;

(3) the duration of an advertisement; or

(4) advertisement under a trade name.

(c) The commissioner by rule may restrict advertising by a branch location of a driver training school so that the location adequately identifies the primary location of the school in a solicitation.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.055. Driver Education Certificates and Certificate Numbers.

(a) The agency shall provide to each licensed or exempt driver education school driver education certificates or certificate numbers to enable the school and each approved parent-taught course provider (approved by the Texas Department of Public Safety under Section 521.205 of the Transportation Code) to print and issue agency-approved driver education certificates with the certificate numbers to be used for certifying completion of an approved driver education course to satisfy the requirements of Sections 521.204(a)(2) and 521.1601, Transportation Code.

(a-1) A certificate printed and issued by a driver education school or Department of Public Safety approved course provider must:

(1) be in a form required by the agency; and

(2) include an identifying certificate number provided by the agency that may be used to verify the authenticity of the certificate with the driver education school or Department of Public Safety approved course provider.

(a-2) A driver education school or Department of Public Safety approved course provider that purchases driver education certificate numbers shall provide for the printing and issuance of original and duplicate certificates in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates. The driver education school or Department of Public Safety approved course provider shall electronically submit to the agency in the manner established by the agency data identified by the agency relating to issuance of agency-approved driver education certificates with the certificate numbers.

(a-3) Certificate numbers must be in serial order so that the number on each issued certificate is unique.

(b) The agency by rule shall provide for the design and distribution of the certificates and certificate numbers in a manner that, to the greatest extent possible, prevents the unauthorized reproduction or misuse of the certificates or certificate numbers.

(c) The agency may charge a fee of not more than $4 for each certificate or certificate number.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 4, effective March 1, 2010; am. Acts 2009, 81st

Leg., ch. 1413 (S.B. 1317), § 5, effective March 1, 2010; am. Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 3, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1413 (S.B. 1317), § 7 provides: "The changes in law made by this Act apply to an application for the issuance of a driver's license filed on or after the effective date of this Act [March 1, 2010]. An application for the issuance of a driver's license filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose."

Sec. 1001.056. Uniform Certificates of Course Completion.

(a) In this section, "operator" means a person approved by a course provider to conduct an approved driving safety course.

(b) The agency shall provide each licensed course provider with course completion certificate numbers to enable the provider to print and issue agency-approved uniform certificates of course completion.

(b-1) Certificate numbering under Subsection (b) must be serial.

(c) The agency by rule shall provide for the design of the certificates and the distribution of certificate numbers in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates or certificate numbers.

(c-1) A course provider shall provide for the printing and issuance of original and duplicate certificates in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates.

(d) A certificate under this section must:

(1) be in a form required by the agency; and

(2) include an identifying number by which the agency, a court, or the department may verify its authenticity with the course provider.

(e) The agency may charge a fee of not more than $4 for each course completion certificate number. A course provider that supplies a certificate to an operator shall collect from the operator a fee equal to the amount of the fee paid to the agency for the certificate number.

(f) A course provider license entitles a course provider to purchase certificate numbers for only one approved driving safety course.

(g) A course provider shall issue a duplicate certificate by mail or commercial delivery. The commissioner by rule shall determine the amount of the fee for issuance of a duplicate certificate under this subsection.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012((a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 928 (H.B. 468), § 1, effective September 1, 2005.)

Sec. 1001.057. Electronic Transmission of Driving Safety Course Information.

The agency shall investigate options to develop and implement procedures to electronically transmit information relating to driving safety courses to municipal and justice courts.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER C
CURRICULUM

Sec. 1001.101. Adult and Minor Driver Education Course Curriculum and Textbooks.

(a) The commissioner by rule shall establish or approve the curriculum and designate the textbooks to be used in a driver education course for minors and adults, including a driver education course conducted by a school district, driver education school, or parent or other individual under Section 521.205, Transportation Code.

(b) A driver education course must require the student to complete:

(1) 7 hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code;

(2) 7 hours of observation instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code; and

(3) 30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2), Transportation Code.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 6.012(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 12.03, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1413 (S.B. 1317), § 6, effective March 1, 2010; am. Acts 2013, 83rd Leg., ch. 716 (H.B. 3483), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1413 (S.B. 1317), § 7 provides: "The changes in law made by this Act apply to an application for the issuance of a driver's license filed on or after the effective date of this Act [March 1, 2010]. An application for the issuance of a driver's license filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that

law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 716 (H.B. 3483), § 6 provides: "The change in law made by Section 1001.101(b), Education Code, as amended by this Act, applies only to a driver education course that begins on or after the effective date of this Act [September 1, 2013] . A course that begins before the effective date of this Act is governed by the law in effect on the date the course began, and that law is continued in effect for that purpose."

Sec. 1001.1015. Adult Driver Education Course Curriculum and Educational Materials.

(a) The commissioner by rule shall establish the curriculum and designate the educational materials to be used in a driver education course exclusively for adults.

(b) A driver education course under Subsection (a) must:

(1) be a six-hour course; and

(2) include instruction in:

(A) alcohol and drug awareness;

(B) the traffic laws of this state;

(C) highway signs, signals, and markings that regulate, warn, or direct traffic; and

(D) the issues commonly associated with motor vehicle accidents, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle.

(c) A course approved under Subsection (a) may be offered as an online course.

(d) A driving safety course or a drug and alcohol driving awareness program may not be approved as a driver education course under Subsection (a).

(Enacted by Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 6, effective September 1, 2009.)

Sec. 1001.102. Alcohol Awareness Information.

(a) The agency by rule shall require that information relating to alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle be included in the curriculum of any driver education course or driving safety course.

(b) In developing rules under this section, the agency shall consult with the department.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.1025. Motorcycle Awareness Information.

(a) The agency by rule shall require that information relating to motorcycle awareness, the dangers of failing to yield the right-of-way to a motorcyclist, and the need to share the road with motorcyclists be included in the curriculum of any driver education course or driving safety course.

(b) In developing rules under this section, the agency shall consult with the department.

(Enacted by Acts 2009, 81st Leg., ch. 1391 (S.B. 1967), § 11, effective September 1, 2009.)

Sec. 1001.103. Drug and Alcohol Driving Awareness Programs.

(a) In this section, "drug and alcohol driving awareness program" means a course with emphasis on curricula designed to prevent or deter misuse and abuse of controlled substances.

(b) The agency shall develop standards for a separate school certification and approve curricula for drug and alcohol driving awareness programs that include one or more courses. Except as provided by agency rule, a program must be offered in the same manner as a driving safety course.

(c) The standards under Subsection (b) may require a course provider to evaluate procedures, projects, techniques, and controls conducted as part of the program.

(d) In accordance with Section 461.013(b), Health and Safety Code, the agency and the Texas Commission on Alcohol and Drug Abuse shall enter into a memorandum of understanding for the interagency approval of the required curricula.

(e) Notwithstanding Section 1001.056, Subchapter D, and Sections 1001.213 and 1001.303, the commissioner may establish fees in connection with the programs under this section. The fees must be in amounts reasonable and necessary to administer the agency's duties under this section.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.104. Hospital and Rehabilitation Facilities.

(a) The agency shall enter into a memorandum of understanding with the Texas Rehabilitation Commission and the department for the interagency development of curricula and licensing criteria for hospital and rehabilitation facilities that teach driver education.

(b) The agency shall administer comprehensive rules governing driver education courses adopted by mutual agreement among the agency, the Texas Rehabilitation Commission, and the department.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.105. Txas Department of Insurance.

The agency shall enter into a memorandum of understanding with the Texas Department of Insurance for the interagency development of a curriculum for driving safety courses.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.106. Information Relating to Railroad and Highway Grade Crossing Safety.

(a) A driving safety course must include information on railroad and highway grade crossing safety.

(b) The commissioner by rule shall provide minimum standards of curriculum relating to operation of vehicles at railroad and highway grade crossings.

(c) Sections 1001.454, 1001.456, and 1001.553 do not apply to a violation of this section or a rule adopted under this section.

(d) Sections 1001.455(a)(6), 1001.501, 1001.551, 1001.552, and 1001.554 do not apply to a violation of this section.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.107. Information Relating to Litter Prevention.

(a) The commissioner by rule shall require that information relating to litter prevention be included in the curriculum of each driver education and driving safety course.

(b) In developing rules under this section, the commissioner shall consult the department.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.108. Information Relating to Anatomical Gifts.

(a) The commissioner by rule shall require that information relating to anatomical gifts be included in the curriculum of each driver education course and driving safety course.

(b) The curriculum must include information about each matter listed in Section 49.001(a), Health and Safety Code.

(c) In developing rules under this section, the commissioner shall consult with the department and the Texas Department of Health.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.110. Information Relating to Driving Distractions.

(a) The commissioner by rule shall require that information relating to the effect of using a wireless communication device or engaging in other actions that may distract a driver on the safe or effective operation of a motor vehicle be included in the curriculum of each driver education course or driving safety course.

(b) In developing rules under this section, the commissioner shall consult with the department.

(Enacted by Acts 2009, 81st Leg., ch. 516 (S.B. 1107), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 7, effective September 1, 2009.)

Sec. 1001.111. Driving Safety Course for Driver Younger Than 25 Years of Age.

(a) The commissioner by rule shall provide minimum standards of curriculum for and designate the educational materials to be used in a driving safety course designed for drivers younger than 25 years of age.

(b) A driving safety course designed for drivers younger than 25 years of age must:

(1) be a four-hour live, interactive course focusing on issues specific to drivers younger than 25 years of age;

(2) include instruction in:

(A) alcohol and drug awareness;

(B) the traffic laws of this state;

(C) the high rate of motor vehicle accidents and fatalities for drivers younger than 25 years of age;

(D) the issues commonly associated with motor vehicle accidents involving drivers younger than 25 years of age, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle, and the role of peer pressure in those issues;

(E) the effect of poor driver decision-making on the family, friends, school, and community of a driver younger than 25 years of age; and

(F) the importance of taking control of potentially dangerous driving situations both as a driver and as a passenger; and

(3) require a written commitment by the student to family and friends that the student will not engage in dangerous driving habits.

(c) [Expired pursuant to Acts 2011, 82nd Leg., ch. 914 (S.B. 1330), § 2, effective September 1, 2012.]

(Enacted by Acts 2011, 82nd Leg., ch. 914 (S.B. 1330), § 2, effective September 1, 2011.)

SUBCHAPTER D
FEES

Sec. 1001.151. Application, License, and Registration Fees.

(a) The commissioner shall collect application, license, and registration fees. The fees must be in amounts sufficient to cover administrative costs and are nonrefundable.

(b) The fee for an initial driver education school license is $1,000 plus $850 for each branch location.

(c) The fee for an initial driving safety school license is an appropriate amount established by the commissioner not to exceed $200.

(d) The fee for an initial course provider license is an appropriate amount established by the commissioner not to exceed $2,000, except that the agency may waive the fee if revenue received from the course provider is sufficient to cover the cost of licensing the course provider.

(e) The annual renewal fee for a course provider, driving safety school, driver education school, or branch location is an appropriate amount established by the commissioner not to exceed $200, except that the agency may waive the fee if revenue generated by the issuance of course completion certificate numbers and driver education certificates is sufficient to cover the cost of administering this chapter and Article 45.0511, Code of Criminal Procedure.

(f) The fee for a change of address of:

(1) a driver education school is $180; and

(2) a driving safety school or course provider is $50.

(g) The fee for a change of name of:

(1) a driver education school or course provider or an owner of a driver education school or course provider is $100; and

(2) a driving safety school or owner of a driving safety school is $50.

(h) The application fee for each additional driver education or driving safety course at a driver training school is $25.

(i) The application fee for:

(1) each director is $30; and

(2) each assistant director or administrative staff member is $15.

(j) Each application for approval of a driving safety course that has not been evaluated by the commissioner must be accompanied by a nonrefundable fee of $9,000.

(k) An application for an original driver education or driving safety instructor license must be accompanied by a processing fee of $50 and an annual license fee of $25, except that the commissioner may not collect the processing fee from an applicant for a driver education instructor license who is currently teaching a driver education course in a public school in this state.

(*l*) The commissioner shall establish the amount of the fee for a duplicate license.

(m) The commissioner may establish a fee for an application for approval to offer a driver education course by an alternative method of instruction under Section 1001.3541 in an amount the commissioner considers appropriate, not to exceed the amount sufficient to cover the costs of considering the application.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 928 (H.B. 468), § 2, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 131 (S.B. 858), § 2, effective May 23, 2009.)

Sec. 1001.152. Duty to Review and Recommend Adjustments in Fee Amounts.

The commissioner shall periodically review the amounts of fees and recommend to the legislature adjustments to those amounts.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.153. Complaint Investigation Fee.

(a) The commissioner shall establish the amount of the fee to investigate a driver training school or course provider to resolve a complaint against the school or course provider.

(b) The fee may be charged only if:

(1) the complaint could not have been resolved solely by telephone or in writing;

(2) a representative of the agency visited the school or course provider as a part of the complaint resolution process; and

(3) the school or course provider was found to be at fault.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER E
LICENSING OF SCHOOLS AND COURSE PROVIDERS

Sec. 1001.201. License Required.

A person may not:

(1) operate a school that provides a driver education course unless the person holds a driver education school license;

(2) operate a school that provides driving safety courses unless the person holds a driving safety school license; or

(3) operate as a course provider unless the person holds a course provider license.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.202. Locations.

(a) A driver education school that teaches a driver education course at one or more branch locations must obtain a separate driver education school license for its main business location and for each branch location. A driver education school may not operate a branch location of a branch location.

(b) A driving safety school may use multiple classroom locations to teach a driving safety course if each location:

(1) is approved by the parent school and the agency;

(2) has the same name as the parent school; and

(3) has the same ownership as the parent school.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.203. Application.

To operate or do business in this state, a driver training school must apply to the commissioner for the appropriate license. The application must:

(1) be in writing;

(2) be in the form prescribed by the commissioner;

(3) include all required information; and

(4) be verified.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.204. Requirements for Driver Education School License.

The commissioner shall approve an application for a driver education school license if, on investigation of the premises of the school, it is determined that the school:

(1) has courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the courses, curricula, and instruction are offered;

(2) has adequate space, equipment, instructional material, and instructors to provide training of good quality in the classroom and behind the wheel;

(3) has directors, instructors, and administrators who have adequate educational qualifications and experience;

(4) provides to each student before enrollment:

(A) a copy of:

(i) the refund policy;

(ii) the schedule of tuition, fees, and other charges; and

(iii) the regulations relating to absence, grading policy, and rules of operation and conduct; and

(B) the name, mailing address, and telephone number of the agency for the purpose of directing complaints to the agency;

(5) maintains adequate records as prescribed by the commissioner to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(6) on completion of training, issues each student a certificate indicating the course name and satisfactory completion;

(7) complies with all county, municipal, state, and federal regulations, including fire, building, and sanitation codes and assumed name registration;

(8) is financially sound and capable of fulfilling its commitments for training;

(9) has administrators, directors, owners, and instructors who are of good reputation and character;

(10) maintains and publishes as part of its student enrollment contract the proper policy for the refund of the unused portion of tuition, fees, and other charges if a student fails to take the course or withdraws or is discontinued from the school at any time before completion;

(11) does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the commissioner;

(12) does not use a name similar to the name of another existing school or tax-supported educational institution in this state, unless specifically approved in writing by the commissioner;

(13) submits to the agency for approval the applicable course hour lengths and curriculum content for each course offered by the school;

(14) does not owe an administrative penalty under this chapter; and

(15) meets any additional criteria required by the agency.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.205. Requirements for Driving Safety School License.

The commissioner shall approve an application for a driving safety school license if on investigation the agency determines that the school:

(1) has driving safety courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the course, curricula, and instruction are developed by the course provider;

(2) has adequate space, equipment, instructional material, and instructors to provide training of good quality;

(3) has instructors and administrators who have adequate educational qualifications and experience;

(4) maintains adequate records as prescribed by the commissioner to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(5) complies with all county, municipal, state, and federal laws, including fire, building, and sanitation codes and assumed name registration;

(6) has administrators, owners, and instructors who are of good reputation and character;

(7) does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the commissioner;

(8) does not use a name similar to the name of another existing school or tax-supported educational establishment in this state, unless specifically approved in writing by the commissioner;

(9) maintains and uses the approved contract and policies developed by the course provider;

(10) does not owe an administrative penalty under this chapter;

(11) will not provide a driving safety course to a person for less than $25; and

(12) meets additional criteria required by the commissioner.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.206. Requirements for Course Provider License.

The commissioner shall approve an application for a course provider license if on investigation the agency determines that:

(1) the course provider has an approved course that at least one licensed driving safety school is willing to offer;

(2) the course provider has adequate educational qualifications and experience;

(3) the course provider will:

(A) develop and provide to each driving safety school that offers the approved course a copy of:

(i) the refund policy; and

(ii) the regulations relating to absence, grading policy, and rules of operation and conduct; and

(B) provide to the driving safety school the name, mailing address, and telephone number of the agency for the purpose of directing complaints to the agency;

(4) a copy of the information provided to each driving safety school under Subdivision (3) will be provided to each student by the school before enrollment;

(5) not later than the 15th working day after the date the person successfully completes the course, the course provider will mail a uniform certificate of course completion to the person indicating the course name and successful completion;

(6) the course provider maintains adequate records as prescribed by the commissioner to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(7) the course provider complies with all county, municipal, state, and federal laws, including assumed name registration and other applicable requirements;

(8) the course provider is financially sound and capable of fulfilling its commitments for training;

(9) the course provider is of good reputation and character;

(10) the course provider maintains and publishes as a part of its student enrollment contract the proper policy for the refund of the unused portion of tuition, fees, and other charges if a student fails to take the course or withdraws or is discontinued from the school at any time before completion;

(11) the course provider does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the commissioner;

(12) the course provider does not use a name similar to the name of another existing school or tax-supported educational institution in this state, unless specifically approved in writing by the commissioner;

(13) the course provider does not owe an administrative penalty under this chapter; and

(14) the course provider meets additional criteria required by the commissioner.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.207. Bond Requirements: Driver Education School.

(a) Before a driver education school may be issued a license, the school must file a corporate surety bond with the commissioner in the amount of:

(1) $10,000 for the primary location of the school; and

(2) $5,000 for each branch location.

(b) A bond issued under Subsection (a) must be:

(1) issued in a form approved by the commissioner;

(2) issued by a company authorized to do business in this state;

(3) payable to the state to be used only for payment of a refund due to a student or potential student;

(4) conditioned on the compliance of the school and its officers, agents, and employees with this chapter and rules adopted under this chapter; and

(5) issued for a period corresponding to the term of the license.

(c) Posting of a bond in the amount required under Subsection (a) satisfies the requirements for financial stability for driver education schools under this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.208. Bond Not Required for Driving Safety School.

A driving safety school is not required to post a surety bond.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.209. Bond Requirements: Course Provider.

(a) Before a course provider may be issued a license, the course provider must provide a corporate surety bond in the amount of $25,000.

(b) A bond issued under Subsection (a) must be:

(1) issued by a company authorized to do business in this state;

(2) payable to the state to be used:

(A) for payment of a refund due a student of the course provider's approved course;

(B) to cover the payment of unpaid fees or penalties assessed by the agency; or

(C) to recover any cost associated with providing course completion certificate numbers, including the cancellation of certificate numbers;

(3) conditioned on the compliance of the course provider and its officers, agents, and employees with this chapter and rules adopted under this chapter; and

(4) issued for a period corresponding to the term of the license.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 928 (H.B. 468), § 3, effective September 1, 2005.)

Sec. 1001.210. Alternate Form of Security.

Instead of the bond required by Section 1001.207 or 1001.209, a driver education school or course provider may provide another form of security that is:

(A) approved by the commissioner; and

(B) in the amount required for a comparable bond under Section 1001.207 or 1001.209.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.211. Issuance and Form of License.

(a) The commissioner shall issue a license to an applicant for a license under this subchapter if:

(1) the application is submitted in accordance with this subchapter; and

(2) the applicant meets the requirements of this chapter.

(b) A license must be in a form determined by the commissioner and must show in a clear and conspicuous manner:

(1) the date of issuance, effective date, and term of the license;

(2) the name and address of the driver training school or course provider;

(3) the authority for and conditions of approval;

(4) the commissioner's signature; and

(5) any other fair and reasonable representation that is consistent with this chapter and that the commissioner considers necessary.

(c) An applicant may obtain both a driver education school license and a driving safety school license.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.212. Notice of Denial of License.

The commissioner shall provide a person whose application for a license under this subchapter is denied a written statement of the reasons for the denial.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.213. License Not Transferable; Change of Ownership.

(a) A license under this subchapter may not be transferred and is the property of the state.

(b) If a change in ownership of a driver training school or course provider is proposed, a new owner shall apply for a new school or course provider license at least 30 days before the date of the change.

(c) Instead of the fees required by Section 1001.151, the fee for a new driver education school or course provider license under Subsection (b) is $500, plus $200 for each branch location, if:

(1) the new owner is substantially similar to the previous owner; and

(2) there is no significant change in the management or control of the driver education school or course provider.

(d) The commissioner is not required to reinspect a school or a branch location after a change of ownership.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.214. Duplicate License.

A duplicate license may be issued to a driver training school or course provider if:

(1) the original license is lost or destroyed; and

(2) an affidavit of that fact is filed with the agency.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER F
LICENSING OF INSTRUCTORS

Sec. 1001.251. License Required for Instructor.

(a) A person may not teach or provide driver education, either as an individual or in a driver education school, or conduct any phase of driver education, unless the person holds a driver education instructor license issued by the agency.

(b) A person may not teach or provide driving safety training, either as an individual or in a driving safety school, or conduct any phase of driving safety education, unless the person holds a driving safety instructor license issued by the agency. This subsection does not apply to an instructor of a driving safety course that does not provide a uniform certificate of course completion to its graduates.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.2511. National Criminal History Record Information Review for Driver Education Instructors.

(a) This section applies to a person who is an applicant for or holder of:

(1) a driver education instructor license; or

(2) a license issued under Section 1001.255.

(b) The agency shall review the national criminal history record information of a person who holds a license described by Subsection (a).

(c) The agency shall place a license described by Subsection (a) on inactive status for the license holder's failure to comply with a deadline for submitting information required under this section.

(d) The agency may allow a person who is applying for a license described by Subsection (a) and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.

(e) The commissioner may adopt rules to administer this section, including rules establishing:

(1) deadlines for a person to submit fingerprints and photographs in compliance with this section;

(2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of or refusal to issue a license described by Subsection (a); and

(3) notification to a driver education school of relevant information obtained by the agency under this section.

(f) The agency is not civilly or criminally liable for an action taken in compliance with this section.

(g) Expired pursuant to its own terms, effective October 1, 2013.

(Enacted by Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 4, effective September 1, 2011.)

Sec. 1001.2512. Fees for Criminal History Record Information Review.

The commissioner by rule shall require a person submitting to a national criminal history record information review under Section 1001.2511 or the driver education school employing the person, as determined by the agency, to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an application for certification under Subchapter B, Chapter 21, for a national criminal

history record information review under Section 22.0837.

(Enacted by Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 4, effective September 1, 2011.)

Sec. 1001.2513. Confidentiality of Information.

Information collected about a person to comply with Section 1001.2511, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

(1) may not be released except:

(A) to provide relevant information to driver education schools or otherwise to comply with Section 1001.2511;

(B) by court order; or

(C) with the consent of the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552, Government Code; and

(3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

(Enacted by Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 4, effective September 1, 2011.)

Sec. 1001.2514. License Holders and Applicants Convicted of Certain Offenses.

(a) A driver education school shall discharge or refuse to hire as an instructor an employee or applicant for employment if the agency obtains information through a criminal history record information review that:

(1) the employee or applicant has been convicted of:

(A) a felony offense under Title 5, Penal Code;

(B) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(C) an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

(2) at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(b) The agency shall suspend or revoke a license described by Section 1001.2511(a) held by a person under this subchapter and shall refuse to issue or renew a license described by Section 1001.2511(a) to a person under this subchapter if the person has been convicted of an offense described by Subsection (a) of this section.

(c) Subsections (a) and (b) do not apply to an offense under Title 5, Penal Code, if:

(1) more than 30 years have elapsed since the offense was committed; and

(2) the person convicted has satisfied all terms of the court order entered on conviction.

(d) A driver education school may discharge an employee who serves as an instructor if the school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the school or the agency. An employee discharged under this subsection is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

(Enacted by Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 4, effective September 1, 2011.)

Sec. 1001.252. Signature and Seal on License Required.

A license under this subchapter must be signed by the commissioner.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.253. Driver Education Instructor Training.

(a) The commissioner shall establish standards for certification of professional and paraprofessional personnel who conduct driver education programs in driver education schools.

(b) A driver education instructor license authorizing a person to teach or provide behind-the-wheel training may not be issued unless the person has successfully completed six semester hours of driver and traffic safety education or a program of study in driver education approved by the commissioner from an approved driver education school.

(c) A person who holds a driver education instructor license authorizing behind-the-wheel training may not be approved to assist a classroom instructor in the classroom phase of driver education unless the person has successfully completed the three additional semester hours of training required for a classroom instructor or a program of study in driver education approved by the commissioner.

(d) Except as provided by Subsection (g) or Section 1001.254, a driver education instructor license authorizing a person to teach or provide classroom training may not be issued unless the person:

(1) has completed nine semester hours of driver and traffic safety education or a program of study

in driver education approved by the commissioner from an approved driver education school; and

(2) holds a teaching certificate and any additional certification required to teach driver education.

(e) A driver education instructor who has completed the educational requirements prescribed by Subsection (d)(1) may not teach instructor training classes unless the instructor has successfully completed a supervising instructor development program consisting of at least six additional semester hours or a program of study in driver education approved by the commissioner that includes administering driver education programs and supervising and administering traffic safety education.

(f) A driver education school may submit for agency approval a curriculum for an instructor development program for driver education instructors. The program must:

(1) be taught by a person who has completed a supervising instructor development program under Subsection (e); and

(2) satisfy the requirements of this section for the particular program or type of training to be provided.

(g) A driver education instructor license authorizing a person to teach or provide classroom training may be issued to a person who satisfies the requirements of Subsection (d)(1) but does not satisfy the requirements of Subsection (d)(2), except that such a license may authorize the license holder to teach or provide classroom training only for a driver education school that is located in a county that has a population of at least 275,000 but not more than 285,000 and is operated by a private primary or secondary school or open-enrollment charter school. This section does not affect any law or school policy that requires a review of criminal history record information.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 820 (H.B. 2678), § 5, effective September 1, 2011.)

Sec. 1001.254. Temporary License.

(a) A temporary driver education instructor license may be issued authorizing a person to teach or provide classroom driver education training if the person:

(1) has completed the educational requirements prescribed by Section 1001.253(d)(1);

(2) holds a Texas teaching certificate with an effective date before February 1, 1986;

(3) meets all license requirements, other than successful completion of the examination required under rules adopted by the State Board for Educator Certification to revalidate the teaching certificate; and

(4) demonstrates, in a manner prescribed by the commissioner, the intention to comply with the examination requirement at the first available opportunity.

(b) A license issued under this section is valid for six months and may not be renewed.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.255. Regulation of Certain Driver Education Instructors.

(a) The agency shall regulate as a driver education school a driver education instructor who:

(1) teaches driver education courses in a county having a population of 50,000 or less; and

(2) does not teach more than 200 students annually.

(b) An instructor described by Subsection (a) must submit to the agency an application for an initial or renewal driver education school license, together with all required documentation and information.

(c) The commissioner may waive initial or renewal driver education school license fees or the fee for a director or administrative staff member.

(d) An instructor described by Subsection (a) is not exempt from a licensing requirement or fee.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.256. Duplicate License.

A duplicate license may be issued to a driver education instructor or driving safety instructor if:

(1) the original license is lost or destroyed; and

(2) an affidavit of that fact is filed with the agency.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.257. Denial of License.

The commissioner may not issue or renew a driver education instructor license, including a temporary license, to a person who has six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code.

(Enacted by Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 12.04, effective September 1, 2009; Enacted by Acts 2009, 81st Leg., ch. 1253 (H.B. 339), § 8, effective September 1, 2009.)

SUBCHAPTER G
LICENSE EXPIRATION AND RENEWAL

Sec. 1001.301. Expiration of School or Course Provider License.

The term of a driver education school, driving safety school, or course provider license may not exceed one year.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.302. Expiration of Instructor License.

The term of a driver education instructor or driving safety instructor license may not exceed one year.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.303. Renewal of School or Course Provider License.

(a) To renew the license of a driver education school, driving safety school, or course provider, the school or course provider must submit to the commissioner a complete application for renewal at least 30 days before the expiration date of the license.

(b) A school or course provider that does not comply with Subsection (a) must, as a condition of renewal of the person's license, pay a late renewal fee. The late renewal fee is in addition to the annual renewal fee. The late renewal fee must be in the amount established by board rule of at least $100, subject to Subchapter D.

(c) The commissioner may reexamine a driver education school's premises.

(d) The commissioner shall renew or cancel the driver education school, driving safety school, or course provider license.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.304. Renewal of Instructor License.

(a) An application to renew a driver education instructor or driving safety instructor license must include evidence of completion of continuing education and be postmarked at least 30 days before the expiration date of the license.

(b) The continuing education must be:

(1) in courses approved by the commissioner; and

(2) for the number of hours established by the commissioner.

(c) An applicant who does not comply with Subsection (a) must pay a late renewal fee of $25.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER H
PRACTICE BY LICENSE HOLDERS

Sec. 1001.351. Course Provider Responsibilities.

(a) Not later than the 15th working day after the course completion date, a course provider or a person at the course provider's facilities shall issue a uniform certificate of course completion by mail or commercial delivery to a person who successfully completes an approved driving safety course.

(b) A course provider shall electronically submit to the agency in the manner established by the agency data identified by the agency relating to uniform certificates of course completion issued by the course provider.

(c) A course provider shall conduct driving safety instructor development courses for its approved driving safety courses.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 928 (H.B. 468), § 4, effective September 1, 2005.)

Sec. 1001.352. Fees for Driving Safety Course.

A course provider shall charge each student:

(1) at least $25 for a driving safety course; and

(2) a fee of at least $3 for course materials and for supervising and administering the course.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.353. Driver Training Course at Public or Private School.

A driver training school may conduct a driver training course at a public or private school for students of the public or private school as provided by an agreement with the public or private school. The course is subject to any law applicable to a course conducted at the main business location of the driver training school.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 6(6.012)(a), effective September 1, 2003.)

Sec. 1001.354. Locations Authorized for Driving Safety Course.

(a) A driving safety course may be taught at a driving safety school if the school is approved by the agency.

(b) A driving safety school may teach an approved driving safety course by an alternative method that does not require students to be present in a classroom if the commissioner approves the alternative method. The commissioner may approve the alternative method if:

(1) the commissioner determines that the approved driving safety course can be taught by the alternative method; and

(2) the alternative method includes testing and security measures that are at least as secure as the measures available in the usual classroom setting.

(c) On approval, the alternative method is considered to satisfy the requirements of this chapter for a driving safety course.

(d) A location at which a student receives supplies or equipment for a course under Subsection (b) is considered a classroom of the school providing the course.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.3541. Alternative Method of Instruction for Driver Education Course.

(a) A driver education school may teach all or part of the classroom portion of an approved driver education course by an alternative method of instruction that does not require students to be present in a classroom if the commissioner approves the alternative method.

(b) The commissioner may approve the alternative method only if:

(1) the alternative method includes testing and security measures that the commissioner determines are at least as secure as the measures available in the usual classroom setting; and

(2) the course, with the use of the alternative method, satisfies any other requirement applicable to a course in which the classroom portion is taught to students in the usual classroom setting.

(Enacted by Acts 2009, 81st Leg., ch. 131 (S.B. 858), § 1, effective May 23, 2009.)

Sec. 1001.355. Withholding Certain Records.

A driver training school may withhold a student's diploma or certificate of completion until the student fulfills the student's financial obligation to the school.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.356. Requirement to Carry License.

A driver education instructor or driving safety instructor shall carry the person's instructor license at all times while instructing a driver education course or driving safety course.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.357. Contract with Unlicensed Driver Training School.

A contract entered into with a person for a course of instruction by or on behalf of a person operating an unlicensed driver training school is unenforceable.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER I
REFUND POLICIES

Sec. 1001.401. Cancellation and Settlement Policy.

As a condition for obtaining a driver education school license or course provider license, the school or course provider must maintain a cancellation and settlement policy that provides a full refund of all money paid by a student if:

(1) the student cancels the enrollment contract before midnight of the third day, other than a Saturday, Sunday, or legal holiday, after the date the enrollment contract is signed by the student, unless the student successfully completes the course or receives a failing grade on the course examination; or

(2) the enrollment of the student was procured as a result of a misrepresentation in:

(A) advertising or promotional materials of the school or course provider; or

(B) a representation made by an owner or employee of the school or course provider.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.402. Termination Policy.

(a) As a condition for obtaining a driver education school license, the school must maintain a policy for the refund of the unused portion of tuition, fees, and

other charges if a student, after expiration of the cancellation period described by Section 1001.401, does not enter the course or withdraws or is discontinued from the course at any time before completion.

(b) The policy must provide that:

(1) refunds are based on the period of enrollment computed on the basis of course time expressed in clock hours;

(2) the effective date of the termination for refund purposes is the earliest of:

(A) the last day of attendance, if the student's enrollment is terminated by the school;

(B) the date the school receives written notice from the student; or

(C) the 10th school day after the last day of attendance;

(3) if tuition is collected in advance of entrance and if a student does not enter the school, terminates enrollment, or withdraws, the school:

(A) may retain not more than $50 as an administrative expense; and

(B) shall refund that portion of the student's remaining classroom tuition and fees and behind-the-wheel tuition and fees that corresponds to services the student does not receive;

(4) the school shall refund items of extra expense to the student, including instructional supplies, books, laboratory fees, service charges, rentals, deposits, and all other charges not later than the 30th day after the effective date of enrollment termination if:

(A) the extra expenses are separately stated and shown in the information provided to the student before enrollment; and

(B) the student returns to the school any school property in the student's possession; and

(5) refunds shall be completed not later than the 30th day after the effective date of enrollment termination.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.403. Refund for Discontinued Course.

On the discontinuation of a course by a driver education school or a course provider that prevents a student from completing the course, all tuition and fees paid become refundable.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.404. Interest on Refund.

(a) If a refund is not timely made, the driver education school or course provider shall pay interest on the amount of the refund. Interest begins to accrue on the first day after the expiration of the refund period and ends on the day preceding the date the refund is made.

(b) The commissioner shall establish annually the rate of interest for a refund at a rate sufficient to provide a deterrent to the retention of student money.

(c) The agency may except a driver education school or course provider from the payment of interest if the school or course provider makes a good-faith effort to refund tuition, fees, and other charges but is unable to locate the student to whom the refund is owed. On request of the agency, the school or course provider shall document the effort to locate a student.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER J
PROHIBITED PRACTICES AND DISCIPLINARY ACTIONS

Sec. 1001.451. Prohibited Practices.

A person may not:

(1) use advertising designed to mislead or deceive a prospective student;

(2) fail to notify the commissioner of the discontinuance of the operation of a driver training school before the fourth working day after the date of cessation of classes and make available accurate records as required by this chapter;

(3) issue, sell, trade, or transfer:

(A) a uniform certificate of course completion or driver education certificate to a person or driver training school not authorized to possess the certificate;

(B) a uniform certificate of course completion to a person who has not successfully completed an approved, six-hour driving safety course; or

(C) a driver education certificate to a person who has not successfully completed a commissioner-approved driver education course;

(4) negotiate a promissory instrument received as payment of tuition or another charge before the student completes 75 percent of the course, except that before that time the instrument may be assigned to a purchaser who becomes subject to any defense available against the school named as payee; or

(5) conduct any part of an approved driver education course or driving safety course without having an instructor physically present in appropriate proximity to the student for the type of instruction being given.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.452. Course of Instruction.

A driver training school may not maintain, advertise, solicit for, or conduct a course of instruction in this state before the later of:

(1) the 30th day after the date the school applies for a driver training school license; or

(2) the date the school receives a driver training school license from the commissioner.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.453. Distribution of Written Information on Course Provider.

(a) A person may not distribute within 500 feet of a court with jurisdiction over an offense to which Article 45.0511, Code of Criminal Procedure, applies written information that advertises a course provider.

(b) A course provider loses its course provider status if the course provider or the course provider's agent, employee, or representative violates this section.

(c) This section does not apply to distribution of information:

(1) by a court; or

(2) to a court to advise the court of the availability of the course or to obtain approval of the course.

(d) Sections 1001.454, 1001.456(a), and 1001.553 do not apply to a violation of this section or a rule adopted under this section.

(e) Sections 1001.455(a)(6), 1001.501, 1001.551, 1001.552, and 1001.554 do not apply to a violation of this section.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.454. Revocation of or Placement of Conditions on School or Course Provider License.

(a) The commissioner may revoke the license of a driver training school or course provider or may place reasonable conditions on the school or course provider if the commissioner has reasonable cause to believe that the school or course provider has violated this chapter or a rule adopted under this chapter.

(b) On revocation of or placement of conditions on the license, the commissioner shall notify the license holder, in writing, of the action and the grounds for the action.

(c) The commissioner may reexamine a school or course provider two or more times during any year in which the commissioner provides a notice relating to the school or course provider under this section.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.455. Denial, Suspension, or Revocation of Instructor License.

(a) The agency may deny an application for an instructor license or suspend or revoke the license of an instructor if the instructor:

(1) fails to meet a requirement for issuance of or holding a license under this chapter;

(2) permits fraud or engages in fraudulent practices relating to the application;

(3) induces or countenances fraud or fraudulent practices on the part of an applicant for a driver's license or permit;

(4) permits or engages in any other fraudulent practice in an action between the applicant or license holder and the public;

(5) fails to comply with agency rules relating to driver instruction; or

(6) fails to comply with this chapter.

(b) Not later than the 10th day after the date of a denial, suspension, or revocation under this section, the agency shall notify the applicant or license holder of that action by certified mail.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.456. Other Disciplinary Actions.

(a) If the agency believes that a driver education school or instructor has violated this chapter or a rule adopted under this chapter, the agency may, without notice:

(1) order a peer review;

(2) suspend the enrollment of students in the school or the offering of instruction by the instructor; or

(3) suspend the right to purchase driver education certificates.

(b) If the agency believes that a course provider, driving safety school, or driving safety instructor has violated this chapter or a rule adopted under this chapter, the agency may, without notice:

(1) order a peer review of the course provider, driving safety school, or driving safety instructor;

(2) suspend the enrollment of students in the school or the offering of instruction by the instructor; or

(3) suspend the right to purchase course completion certificate numbers.

(c) A peer review ordered under this section must be conducted by a team of knowledgeable persons selected by the agency. The team shall provide the agency with an objective assessment of the content of the school's or course provider's curriculum and its application. The school or course provider shall pay the costs of the peer review.

(d) A suspension of enrollment under Subsection (a)(2) or (b)(2) means a ruling by the commissioner that restricts a school from:

(1) accepting enrollments or reenrollments;

(2) advertising;

(3) soliciting; or

(4) directly or indirectly advising prospective students of its program or course offerings.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 928 (H.B. 468), § 5, effective September 1, 2005.)

Sec. 1001.457. Term of License Suspension.

A license may not be suspended for less than 30 days or more than one year.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.458. Surrender of License.

(a) A license holder whose license is suspended or revoked shall surrender the license to the agency not later than the fifth day after the date of suspension or revocation.

(b) The agency may reinstate a suspended license on full compliance by the license holder with this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.459. Appeal and Request for Hearing.

(a) A person aggrieved by a denial, suspension, or revocation of a license may appeal the action and request a hearing before the commissioner.

(b) The request must be submitted not later than the 15th day after the date the person receives notice under Section 1001.455. On receipt of a request for a hearing, the commissioner shall set a time and place for the hearing and send notice of the time and place to the aggrieved person.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.460. Hearing.

(a) The hearing on an appeal shall be held not later than the 30th day after the date the request for a hearing is received under Section 1001.459.

(b) Except as provided by Subsection (e), the commissioner shall conduct the hearing and may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, and documents.

(c) At the hearing, the aggrieved person may appear in person or by counsel and present evidence. Any interested person may appear and present oral or documentary evidence.

(d) Based on the evidence submitted at the hearing, the commissioner shall take the action the commissioner considers necessary in connection with the denial, suspension, or revocation of the license. Not later than the 10th day after the date of the hearing, the commissioner shall notify the aggrieved person by certified mail of the commissioner's decision.

(e) The agency may contract with another entity to conduct a hearing under this subchapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.461. Judicial Review.

(a) A decision under Section 1001.460 may be appealed to a district court in Travis County.

(b) Unless stayed by the court on a showing of good cause, the commissioner's decision may not be superseded during appeal.

(c) On filing the appeal, citation shall be served on the commissioner, who shall make a complete record of all proceedings before the commissioner and certify a copy to the court.

(d) Trial is before the court and shall be based on the record before the commissioner. The court shall make its decision based on the record. The court shall affirm the commissioner's decision if the court finds substantial evidence in the record to support the decision, unless the court finds the commissioner's decision to be:

(1) arbitrary and capricious;

(2) in violation of the constitution or a law of the United States or this state; or

(3) in violation of a rule adopted by the commissioner under this chapter.

(e) A decision of the court is subject to appeal in the manner provided for civil actions generally.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER K
CLASS ACTION SUITS

Sec. 1001.501. Authority to Bring Class Action.

(a) A person who is injured by an act taken or permitted in violation of this chapter may, on behalf of the person and others similarly situated, bring an action in a district court, regardless of the amount in controversy, for damages, temporary or permanent injunctive relief, declaratory relief, or other relief in accordance with Rule 42, Texas Rules of Civil Procedure. Venue for an action under this section is in Travis County.

(b) A person who files an action under this section shall promptly notify the attorney general. The attorney general may join in the action as a party plaintiff on the filing of an application not later than the 30th day after the date the action is filed.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.502. Notice.

(a) In a class action under Section 1001.501, the court:

(1) shall direct the defendant to serve the best notice practicable on each member of the class; and

(2) may direct that individual notice be served on each member of the class who can be identified through reasonable efforts.

(b) The notice must inform each recipient that:

(1) the person is thought to be a member of the class; and

(2) if the person is a member of the class, the person may enter an appearance and join in the action.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.503. Judgment.

(a) The court shall enter judgment in the class action in a form that may be justified.

(b) Damages may be awarded only to a member of the class joined as a party plaintiff. All other relief granted by the court inures to the benefit of all members of the class.

(c) A prevailing plaintiff in a class action shall be awarded court costs and reasonable attorney's fees. A legal aid society or legal services program that represents a prevailing plaintiff shall be awarded a service fee instead of attorney's fees.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

SUBCHAPTER L
PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1001.551. Injunction in General.

(a) If a person violates this chapter, the commissioner, through the attorney general, shall apply in the state's name for an order to enjoin the violation of or to enforce compliance with this chapter.

(b) On a finding by a court in which a verified petition is filed that a person has violated this chapter, the court may issue, without notice or bond, a temporary restraining order enjoining the continued violation of this chapter. If after a hearing it is established that the person has violated or is violating this chapter, the court may issue a permanent injunction to enjoin the violation of or to enforce compliance with this chapter.

(c) A proceeding under this section is in addition to any other remedy or penalty provided by this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.552. Injunction Against School.

(a) If the commissioner believes that a driver training school has violated this chapter, the commissioner shall apply for an injunction restraining the violation.

(b) Venue for an action under this section is in Travis County.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.553. Administrative Penalty.

(a) After an opportunity for a hearing, the commissioner may impose an administrative penalty on a person who violates this chapter or a rule adopted under this chapter.

(b) The amount of the penalty may not exceed $1,000 a day for each violation.

(c) The attorney general, at the request of the agency, may bring an action to collect the penalty.

(d) A penalty imposed under this section is in addition to any other remedy provided by law, including injunctive relief.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.554. General Criminal Penalty.

(a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is punishable by:

(1) a fine of not less than $100 or more than $20,000;

(2) confinement in the county jail for a term not to exceed six months; or

(3) both the fine and confinement.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003.)

Sec. 1001.555. Unauthorized Transfer or Possession of Certificate; Offense.

(a) A person commits an offense if the person knowingly sells, trades, issues, or otherwise transfers, or possesses with intent to sell, trade, issue, or otherwise transfer, a uniform certificate of course completion, a course completion certificate number, or a driver education certificate to an individual, firm, or corporation not authorized to possess the certificate or number.

(b) The agency shall contract with the department to provide undercover and investigative assistance in the enforcement of Subsection (a).

(c) A person commits an offense if the person knowingly possesses a uniform certificate of course completion, a course completion certificate number, or a driver education certificate and is not authorized to possess the certificate or number.

(d) An offense under this section is a felony punishable by imprisonment in the Texas Department of Criminal Justice for a term not to exceed five years.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), art. 6, § 6.012(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 928 (H.B. 468), § 6, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.055, effective September 1, 2009.)

Texas Civil Statutes

TITLE 47
DEPOSITORIES

Sec. 2548a. Pledge of State General Fund Warrants As Security for Deposited Funds of County or School District in Lieu of Bonds.

Any banking corporation in the State of Texas selected as the depository bank for County Funds, or for the funds of any School District in Texas, including Common School Districts, Independent School Districts, Rural High School Districts, Consolidated School Districts, and any other School District in Texas, or funds of any State institution, shall be authorized to pledge General Fund Warrants of the State of Texas as securities for the purpose of securing such funds when, as otherwise provided by law, such banking corporations are authorized to pledge securities in lieu of personal bonds or surety bonds for the purpose of securing such Funds; provided, however, this privilege shall cease and be null and void whenever the deficit in the General Fund shall exceed Forty-two Million ($42,000,000.00) Dollars.

TITLE 109
PENSIONS

Art. 6228a-5. Annuities or Investments for Certain Public Employees; Salary Reductions.

Sec. 1. (a) This section and Section 2 of this Act apply to:

(1) the governing boards of state-supported institutions of higher education;

(2) the Texas Higher Education Coordinating Board;

(3) the Texas Education Agency;

(4) the Texas School for the Deaf;

(5) the Texas School for the Blind and Visually Impaired;

(6) the Texas Department of Mental Health and Mental Retardation and the state schools, state hospitals, and other facilities and institutions under its jurisdiction;

(7) the Texas Department of Health and facilities and institutions under its jurisdiction;

(8) the Texas Youth Commission and facilities and institutions under its jurisdiction; and

(9) the governing boards of Centers for Community Mental Health and Mental Retardation Services, county hospitals, city hospitals, city-county hospitals, hospital authorities, hospital districts, affiliated state agencies, and each of their political subdivisions.

(b) An entity described by Subsection (a) of this section may enter into agreements with the entity's employees for the purchase of annuities or for contributions to any type of investment for the entity's employees as authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments.

Sec. 2. (a) If an employee of an entity covered by Section 1 of this Act is paid by the Comptroller of Public Accounts, the comptroller may take the action, in regard to that employee, that is authorized by Subsection (b) of this section. If an employee of an entity covered by Section 1 is not paid by the comptroller, the governing board of the entity may take the action in regard to that employee.

(b) The comptroller or the governing board, as appropriate, may:

(1) reduce the salary of participants when authorized by the participants and shall apply the amount of the reduction to the purchase of annuity contracts or to contributions to any type of investment authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments, the exclusive control of which will vest in the participants; and

(2) develop a system to allow or require participants to electronically authorize:

(A) participation under this Act;

(B) purchases of annuity contracts; and

(C) contributions to investments.

Sec. 3. (a) A state agency may permit some or all of the employees of the agency to participate in an employer-sponsored program described by Section 457(f) of the Internal Revenue Code of 1986, including subsequent amendments of that law.

(b) [Repealed by Acts 2003, 78th Leg., ch. 1111 (H.B. 2359), § 46(10), effective September 1, 2003.]

(c) In this section, "state agency" means a board, office, commission, department, institution, court, or other agency in any branch of state government.

Sec. 4. In this section and in Sections 5, 6, 7, 8, 8A, 9, 9A, 9B, 10, 11, 12, and 13 of this Act:

(1) "Board of trustees" means the board of trustees of the Teacher Retirement System of Texas.

(2) "Educational institution" means a school district or an open-enrollment charter school.

(3) "Eligible qualified investment" means a qualified investment product offered by a company that:

(A) is certified to the board of trustees under Section 5 of this Act; or

(B) is eligible to certify to the board of trustees under Section 8 of this Act.

(4) "Employee" means an employee of an educational institution.

(5) "Qualified investment product" means an annuity or investment that:

(A) meets the requirements of Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

(B) complies with applicable federal insurance and securities laws and regulations; and

(C) complies with applicable state insurance and securities laws and rules.

(6) "Retirement system" means the Teacher Retirement System of Texas.

(7) "Salary reduction agreement" means an agreement between an educational institution and an employee to reduce the employee's salary for the purpose of making direct contributions to or purchases of a qualified investment product.

Sec. 5. (a) An educational institution may enter into a salary reduction agreement with an employee of the institution only if the qualified investment product:

(1) is an eligible qualified investment; and

(2) is registered with the retirement system under Section 8A of this Act.

(b) A company may certify to the retirement system that the company offers a qualified investment product that is an annuity contract under this section if the company:

(1) is authorized to issue annuity contracts in this state at the time the application is filed;

(2) does not assess fees, costs, or penalties on an annuity contract that exceed the maximum amounts established by rules adopted by the retirement system; and

(3) complies with the standards adopted under Section 6 of this Act.

(c) A company that certifies under this section shall notify the retirement system if, at any time, the company is not in compliance with Subsection (b) of this section or if an investment product that the company offers under this Act is the subject of a salary reduction agreement and the investment product is not a qualified investment product.

(d) The retirement system shall establish and maintain a list of companies that have certified under this section. The list must be available on the retirement system's Internet website.

(e) An employee is entitled to designate any agent, broker, or company through which a qualified investment product may be purchased or contributions may be made.

(f) To the greatest degree possible, employers of employees who participate in the program offered under this section shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts.

Sec. 6. (a) A company is eligible to certify to the retirement system under Section 5 of this Act if the company satisfies the following financial strength criteria:

(1) the company's actuarial opinions required under Articles 1.11 and 3.28, Insurance Code, have not been adverse or qualified in the five years preceding the date the application is filed;

(2) the company is subject to the annual audit requirements of Article 1.15A, Insurance Code, and its most recent audit of financial strength conducted by an independent certified public accountant is timely filed and does not indicate the existence of any material adverse financial conditions in the company for the five years preceding the filing deadline for the audit;

(3) the company has not been the subject of an administrative or regulatory action by the Texas Department of Insurance under Article 1.32 or 21.28-A or Section 83.051, Insurance Code, in the five years preceding the date the application is filed;

(4) the company has maintained during the five years preceding the date the application is filed an average of at least 400 percent of the authorized control level, as calculated in accordance with the risk-based capital and surplus requirements established in rules adopted by the Texas Department of Insurance;

(5) the company has not fallen below 300 percent of the authorized control level, as calculated in accordance with the risk-based capital and surplus established in rules adopted by the Texas Department of Insurance, at any time in the five years preceding the date the application is filed; and

(6) the company has at least five years' experience in qualified investment products and has a specialized department dedicated to the service of qualified investment products.

(b) For purposes of Subsection (a)(4) of this section, the company must calculate the five-year average on the same date each year.

(c) After consultation with the Texas Department of Insurance, the Texas Department of Banking, and the State Securities Board, the retirement system may adopt rules only to administer this section and Sections 5, 7, 8, 8A, 9A, 9B, 11, 12, and 13 of this Act.

(d) The retirement system shall refer all complaints about qualified investment products, including complaints that allege violations of this Act by companies that certify to the retirement system under Section 5 or 8 of this Act that the companies offer qualified investment products, to the appropriate division of the Texas Department of Insurance, the Texas Department of Banking, or the State Securities Board.

(d-1) Except as provided by Subsection (d-2) of this section, the Texas Department of Insurance, the Texas Department of Banking, or the State Securities Board shall investigate a complaint received from the retirement system under Subsection (d) of this section. If as a result of the investigation the Texas Department of Insurance, the Texas Department of Banking, or the State Securities Board, as applicable, determines that a violation of this Act may have occurred, the Texas Department of Insurance, the Texas Department of Banking, or the State Securities Board, as applicable, shall forward the results of the investigation relating to an alleged violation of this Act to the attorney general.

(d-2) If the Texas Department of Banking receives a complaint from the retirement system under Subsection (d) of this section that relates to a federally chartered financial institution, the Texas Department of Banking shall:

(1) refer the complaint to the appropriate federal regulatory agency; and

(2) notify the attorney general of the department's referral.

(e) The Texas Department of Insurance, the Texas Department of Banking, and the State Securities Board shall cooperate with the retirement system in the administration of this Act and shall:

(1) submit a report to the retirement system at the beginning of each quarter of the fiscal year that provides the status of any enforcement action taken or investigation or referral made regarding a product or a company that is the subject of a complaint under Subsection (d) of this section; and

(2) promptly notify the retirement system of any final enforcement order issued regarding the product or company.

(f) The retirement system may deny, suspend, or revoke the certification of a company if the retirement system receives notice that the company or the company's product was determined to be in violation of this Act or another law in any judicial or administrative proceeding.

(f-1) A company whose certification is denied, suspended, or revoked under this section may recertify to the board of trustees after any applicable period of suspension or revocation.

(g) The retirement system shall prescribe the uniform notice required by Section 11 of this Act.

(h) A certification or recertification remains in effect for five years unless denied, suspended, or revoked.

(i) A company offering eligible qualified investments that are subject to salary reduction agreements must provide toll-free telephone transferring privileges each business day from 8 a.m. to 6 p.m. central standard time.

Sec. 7. (a) The retirement system may collect a fee, not to exceed the administrative cost to the retirement system, from a company that certifies or recertifies under Section 6 or 8 of this Act or that registers a qualified investment product under Section 8A. The fee for certification or recertification may not exceed $5,000. The fee for registration of a qualified investment product must be set by the retirement system in the reasonable amount necessary to recover the cost to the system of administering Section 8A of this Act.

(b) Fees collected under this section shall be deposited to the credit of the 403(b) administrative trust fund. The 403(b) administrative trust fund is created as a trust fund with the comptroller and shall be administered by the retirement system as a trustee on behalf of the participants in

qualified investment products offered under this Act.

Sec. 8. (a) A company that offers qualified investment products other than annuity contracts, including a company that offers custodial accounts under Section 403(b)(7), Internal Revenue Code of 1986, that hold only investment products registered with the system under Section 8A of this Act, may certify to the retirement system based on rules adopted by the board of trustees. The rules shall be based on reasonable factors, including:

(1) the financial strength of the companies offering products; and

(2) the administrative cost to employees.

(b) The retirement system shall establish and maintain a list of companies that provide certification under this section. The list must be available on the retirement system's Internet website.

Sec. 8A. (a) A qualified investment product offered to an employee under Section 5 of this Act must be an eligible qualified investment registered with the retirement system under this section. To register a product, the company offering the product must submit an application to the retirement system in accordance with this section and pay the registration fee established under Section 7 of this Act.

(b) The retirement system shall adopt the form and content of the registration application.

(c) The retirement system shall designate not more than two registration periods each year during which a company may apply to register a qualified investment product and add the product to the list of qualified investment products maintained under Subsection (f) of this section. To register a qualified investment product, a company must submit an application for a designated registration period in the manner required by the retirement system.

(d) A company that registers a qualified investment product under this section shall notify the retirement system if, at any time, the product is not an eligible qualified investment.

(e) A registration under this section remains in effect for five years unless denied, suspended, or revoked.

(f) The retirement system shall establish and maintain a list of qualified investment products that are registered under this section. The list must include information concerning all the fees charged in connection with each registered qualified investment product and the sale and administration of the product. The list must include other information concerning each product as determined by the retirement system. In implementing the list, the retirement system shall take action to avoid increasing the amount of work required of educational institutions, which may include assigning a unique identifying number to each product. The list must be available on the retirement system's Internet website.

Sec. 9. (a) An educational institution may not:

(1) except as provided by Subdivision (8) of this subsection and Subsection (b) of this section, refuse to enter into a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction is an eligible qualified investment and is registered with the system under Section 8A;

(2) require or coerce an employee's attendance at any meeting at which qualified investment products are marketed;

(3) limit the ability of an employee to initiate, change, or terminate a qualified investment product at any time the employee chooses;

(4) grant exclusive access to an employee by discriminating against or imposing barriers to any agent, broker, or company that provides qualified investment products under this Act;

(5) grant exclusive access to information about an employee's financial information, including information about an employee's qualified investment products, to a company or agent or affiliate of a company offering qualified investment products unless the employee consents in writing to the access;

(6) accept any benefit from a company or from an agent or affiliate of a company that offers qualified investment products;

(7) use public funds to recommend a qualified investment product offered by a company or an agent or affiliate of a company that offers a qualified investment product; or

(8) enter into or continue a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction agreement is not an eligible qualified investment, including the investment product of a company whose certification has been denied, suspended, or revoked without first providing the employee with notice in writing that:

(A) indicates the reason the subject of the salary reduction agreement is no longer an eligible qualified investment or why certification has been denied, suspended, or revoked; and

(B) clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement.

(b) An educational institution may refuse to enter into a salary reduction agreement with an employee if:

(1) the eligible qualified investment product that is the subject of the salary reduction agreement is offered by a company that does not comply with the educational institution's administrative requirements;

(2) the educational institution imposes the administrative requirements uniformly on all companies that offer eligible qualified investment products; and

(3) the administrative requirements are necessary to comply with employer responsibilities imposed by:

(A) Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

(B) any other provision of the Internal Revenue Code of 1986 that applies to Section 403(b);

(C) any regulation adopted in relation to a law described by Paragraph (A) or (B) of this subdivision that is effective after December 31, 2007; or

(D) any change to this Act that becomes effective after January 1, 2007.

Sec. 9A. A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract under which the person is to provide services for or administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment advisor with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers; and

(B) has its main office, a branch office, or a trust office in this state.

Sec. 9B. (a) This section applies to an entity under this Act that enters into a contract with an educational institution to administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986.

(b) If a person described by Subsection (a) holds a meeting at which qualified investment products will be marketed to employees of the educational institution, the person must provide representatives of other companies certified to the retirement system under Section 5 or 8 of this Act an opportunity to attend and market their qualified investment products at the meeting.

Sec. 10. (a) A person commits an offense if the person:

(1) sells or offers for sale an investment product that is not an eligible qualified investment or that is not registered under Section 8A of this Act and that the person knows will be the subject of a salary reduction agreement;

(2) violates the licensing requirements of Title 13, Insurance Code, with regard to a qualified investment product that the person knows will be the subject of a salary reduction agreement; or

(3) engages in activity described by Subchapter B, Chapter 541, Insurance Code, with regard to a qualified investment product that the person knows will be the subject of a salary reduction agreement.

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

(c) If conduct that constitutes an offense under this section also constitutes a criminal offense under the Insurance Code, the actor may be prosecuted under this section or under the Insurance Code, but not under both this section and the Insurance Code.

Sec. 10A. (a) A person who violates this Act is subject to a civil penalty in an amount that does not exceed:

(1) $10,000 for a single violation; or

(2) $1,000,000 for multiple violations.

(b) For purposes of determining the amount of a civil penalty under this section, the court shall consider the following factors:

(1) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(2) the harm to other persons resulting directly or indirectly from the violation;

(3) cooperation by the person in any inquiry conducted by the state concerning the violation, efforts to prevent future occurrences of the violation, and efforts to mitigate the harm caused by the violation;

(4) the history of previous violations by the person;

(5) the need to deter the person or others from committing such violations in the future; and

(6) other matters as justice may require.

(c) The attorney general may institute an action:

(1) for injunctive relief to restrain a violation by a person who is or who appears to be in violation of or threatening to violate this Act; or

(2) to collect a civil penalty under this section.

(d) An action under this section must be filed in a district court in Travis County.

(e) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Sec. 11. (a) A person who offers to sell an annuity contract that is or will likely be the subject of a salary reduction agreement shall provide notice to a potential purchaser as provided by this section.

(b) The retirement system shall make the notice available on request and post the form of the notice on the retirement system's Internet website.

(c) The notice required under this section must be uniform and:

(1) be in at least 14-point type;

(2) contain spaces for:

(A) the name, address, and telephone number of the agent and company offering the annuity contract for sale;

(B) the name, address, and telephone number of the company underwriting the annuity;

(C) the license number of the person offering to sell the product;

(D) the name of the state agency that issued the person's license;

(E) the name of the company account representative who has the authority to respond to inquiries or complaints; and

(F) with respect to fixed annuity products:

(i) the current interest rate or the formula used to calculate the current rate of interest;

(ii) the guaranteed rate of interest and the percentage of the premium to which the interest rate applies;

(iii) how interest is compounded;

(iv) the amount of any up-front, surrender, withdrawal, deferred sales, and market value adjustment charges or any other contract restriction that exceeds 10 years;

(v) the time, if any, the annuity is required to be in force before the purchaser is entitled to the full bonus accumulation value;

(vi) the manner in which the amount of the guaranteed benefit under the annuity is computed;

(vii) whether loans are guaranteed to be available under the annuity;

(viii) what restrictions, if any, apply to the availability of money attributable to the value of the annuity once the purchaser is retired or separated from the employment of the employer;

(ix) the amount of any other fees, costs, or penalties;

(x) whether the annuity guarantees the participant the right to surrender a percentage of the surrender value each year, and the percentage, if any; and

(xi) whether the annuity guarantees the interest rate associated with any settlement option; and

(3) state, in plain language:

(A) that the company offering the annuity must comply with Section 5 of this Act and that the annuity must be a qualified investment product registered under Section 8A of this Act;

(B) that the potential purchaser may contact the retirement system or access its Internet website to determine which companies are in compliance with Section 5 of this Act and which qualified investment products are registered under Section 8A of this Act;

(C) the civil remedies available to the employee;

(D) that the employee may purchase any eligible qualified investment through a salary reduction agreement;

(E) the name and telephone number of the Texas Department of Insurance division that specializes in consumer protection; and

(F) the name and telephone number of the attorney general's division that specializes in consumer protection.

(d) A variable annuity must be accompanied by:

(1) a notice that includes any item listed in Subsection (c) of this section that is applicable to variable annuities;

(2) the prospectus; and

(3) any other purchasing information required by law.

(e) An equity-based index contract must state in plain language how the annuity contract will be credited with growth.

(f) If a notice and other information required under this section is not provided, any annuity contract for which the notice is required is voidable at the discretion of the purchaser. Not later than the 30th day after the date an employee notifies the seller in writing of the employee's election to void the contract, the seller shall refund to the employee:

(1) the amount of all consideration paid to the purchaser; and

(2) 10 percent interest up to the date the employee provides the notice to the seller.

(g) A seller who receives a refund request under this section is not required to make a refund otherwise required by this section if, not later than the 30th day after the date the seller receives a request for a refund from the employee, the seller provides a copy of the notice signed by the employee.

Sec. 12. A company that offers an eligible qualified investment that is subject to a salary reduction agreement shall demonstrate annually to the retirement system that each of its representatives are properly licensed and qualified, by training and continuing education, to sell and service the company's eligible qualified investments.

Sec. 13. (a) The board of trustees may deny, suspend, or revoke the certification or recertification of a company if the company violates Section 5, 6, 7, 8, 8A, 10, 11, or 12 of this Act or a rule adopted under those sections.

(b) The board of trustees may deny, suspend, or revoke the registration of an investment product under this section if:

(1) the product is not an eligible qualified investment;

(2) the offer of the product violates Section 5, 6, 7, 8, 8A, 10, 11, or 12 of this Act or a rule adopted under those sections; or

(3) the company that offers the product violates Section 5, 6, 7, 8, 8A, 10, 11, or 12 of this Act or a rule adopted under those sections.

(c) A proceeding to suspend or revoke a certification, recertification, or registration under this section is a contested case under Chapter 2001, Government Code.

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1177 (H.B. 3480), § 8 provides:

"(a) Section 9(a), Chapter 22 (S.B. 17), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), as amended by this Act, applies to a salary reduction agreement that is entered into or renewed on or after the effective date of this Act [September 1, 2009]. A salary reduction agreement that is entered into or renewed before the effective date of this Act is governed by the law in effect on the date the agreement was entered into or renewed, and the former law remains in effect for that purpose.

(b) Sections 9A and 9B, Chapter 22 (S.B. 17), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), as added by this Act, apply to a contract to administer a plan under Section 403(b), Internal Revenue Code of 1986, offered by a school district or open-enrollment charter school that is entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect on the date the contract was entered into or renewed, and the former law remains in effect for that purpose.

(c) Section 10(a), Chapter 22 (S.B. 17), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), as amended by this Act, and Section 10A, Chapter 22 (S.B. 17), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), as added by this Act, apply only to a violation that occurs on or after the effective date of this Act. A violation that occurred before the effective date of this Act is covered by the law in effect at the time the violation occurred, and the former law is continued in effect for that purpose."

Agriculture Code

TITLE 3
AGRICULTURAL RESEARCH AND PROMOTION

CHAPTER 48
AGRICULTURAL PROJECTS IN CERTAIN URBAN SCHOOLS

Section

Sec. 48.001. Creation.

(a) Consistent with this chapter, the department by rule shall develop a program to award grants to public elementary and middle schools located in large urban school districts for the purpose of establishing:

(1) demonstration agricultural projects; or

(2) other projects designed to foster an understanding and awareness of agriculture.

(b) The department may award a grant under this chapter to a nonprofit organization that partners with a school described by Subsection (a) to establish a project described by Subsection (a) at the school.

(Enacted by Acts 1999, 76th Leg., ch. 975 (H.B. 2631), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 9 (S.B. 701), § 1, effective April 11, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(1), effective September 1, 2001 (renumbered from Sec. 46.001); am. Acts 2007, 80th Leg., ch. 1147 (S.B. 827), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 596 (S.B. 199), § 1, effective June 17, 2011.)

Sec. 48.002. Eligibility.

Subject to available funds, a public elementary or middle school, or a nonprofit organization that partners with the school, is eligible to receive a grant under this chapter if the school:

(1) is located in a school district with an enrollment of at least 49,000 students; and

(2) submits to the department, at the time and in the form required by the department, a proposal for a demonstration agricultural project that includes:

(A) a description of the proposed project;

(B) a schedule of projected costs for the project;

(C) a statement of the educational benefits of the project, including how the project will improve understanding of agriculture; and

(D) if a nonprofit organization is applying for the grant, a statement from the school that the nonprofit organization is partnering with the school.

(Enacted by Acts 1999, 76th Leg., ch. 975 (H.B. 2631), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 9 (S.B. 701), § 2, effective April 11, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(1), effective September 1, 2001 (renumbered from Sec. 46.002); am. Acts 2007, 80th Leg., ch. 1147 (S.B. 827), § 2, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 596 (S.B. 199), § 2, effective June 17, 2011.)

Sec. 48.003. Limits [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 596 (S.B. 199), § 4, effective June 17, 2011.

(Enacted by Acts 1999, 76th Leg., ch. 975 (H.B. 2631), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 9 (S.B. 701), § 2, effective April 11, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(1), effective September 1, 2001 (renumbered from Sec. 46.003).)

Sec. 48.004. Report.

A school or nonprofit organization that receives a grant under this chapter must report the results of the project to the department in a manner determined by the department.

(Enacted by Acts 1999, 76th Leg., ch. 975 (H.B. 2631), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(1), effective September 1, 2001 (renumbered from Sec. 46.004); am. Acts 2011, 82nd Leg., ch. 596 (S.B. 199), § 3, effective June 17, 2011.)

Sec. 48.005. Funds.

The department may solicit and accept gifts, grants, and other donations from any source to carry out this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 975 (H.B. 2631), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(1), effective September 1, 2001 (renumbered from Sec. 46.005).)

TITLE 6
PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS

SUBTITLE B
LIVESTOCK

CHAPTER 150
IMPORTED MEAT

Subchapter B. Purchase of Imported Beef by State Agencies and Political Subdivisions

Section

SUBCHAPTER B
PURCHASE OF IMPORTED BEEF BY STATE AGENCIES AND POLITICAL SUBDIVISIONS

Sec. 150.011. Definitions.

In this subchapter:

(1) "Political subdivision" means a county or municipality or a school, junior college, water, hospital, reclamation, or other special-purpose district.

(2) "State agency" means an agency, department, board, or commission of the state or a state eleemosynary, educational, rehabilitative, correctional, or custodial facility.

(Enacted by Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 2.02(a), effective August 26, 1991.)

Sec. 150.012. Purchase of Imported Beef by State Agency or Political Subdivision.

(a) A state agency or political subdivision may not purchase beef or a product consisting substantially of beef that has been imported from outside the United States.

(b) The Texas Department of Health shall enforce this section and shall receive reports of violations of this section.

(c) The Texas Board of Health shall adopt rules for the reporting of purchases covered by this section by state agencies and political subdivisions and for the reporting of violations of this section.

(Enacted by Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 2.02(a), effective August 26, 1991.)

Alcoholic Beverage Code

TITLE 4
REGULATORY AND PENAL PROVISIONS

CHAPTER 101
GENERAL CRIMINAL PROVISIONS

Subchapter D. Miscellaneous Offenses

SUBCHAPTER D
MISCELLANEOUS OFFENSES

Sec. 101.75. Consumption of Alcoholic Beverages Near Schools.

(a) A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a public or private school, including a parochial school, that provides all or any part of prekindergarten through twelfth grade.

(b) This section does not apply to the possession of an open container or the consumption at an event duly authorized by appropriate authorities and held in compliance with all other applicable provisions of this code.

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "open container" has the meaning assigned in Section 109.35.

(Enacted by Acts 1993, 73rd Leg., ch. 934 (H.B. 1445), § 63, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 6, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 388 (H.B. 688), § 1, effective May 28, 2001.)

CHAPTER 109
MISCELLANEOUS REGULATORY PROVISIONS

Subchapter C. Local Regulation of Alcoholic Beverages

SUBCHAPTER C
LOCAL REGULATION OF ALCOHOLIC BEVERAGES

Sec. 109.33. Sales Near School, Church, or Hospital.

(a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within:

(1) 300 feet of a church, public or private school, or public hospital;

(2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007, Education Code; or

(3) 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

(1) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or

(2) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

(c) Every applicant for an original alcoholic beverage license or permit for a location with a door by which the public may enter the place of business of

the applicant that is within 1,000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to officials of the public or private school before filing the application with the commission. A copy of the notice must be submitted to the commission with the application. This subsection does not apply to a permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53.

(d) As to any dealer who held a license or permit on September 1, 1983, in a location where a regulation under this section was in effect on that date, for purposes of Subsection (a), but not Subsection (c), of this section, the measurement of the distance between the place of business of the dealer and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(e) The commissioners court of a county or the governing board of a city or town that has enacted a regulation under Subsection (a) of this section may also allow variances to the regulation if the commissioners court or governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the court or governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

(f) Subsections (a)(2) and (3) do not apply to the holder of:

(1) a retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages;

(2) a retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or

(3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in Chapter 102.

(g) Subsection (a)(3) does not apply to the holder of:

(1) a license or permit issued under Chapter 27, 31, or 72 who is operating on the premises of a private school; or

(2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 1,000 feet of a private school.

(h) Subsection (a)(1) does not apply to the holder of:

(1) a license or permit who also holds a food and beverage certificate covering a premise that is located within 300 feet of a private school; or

(2) a license or permit covering a premise where minors are prohibited from entering under Section 109.53 and that is located within 300 feet of a private school.

(i) In this section, "private school" means a private school, including a parochial school, that:

(1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and

(2) has more than 100 students enrolled and attending courses at a single location.

(Enacted by Acts 1977, 65th Leg., ch. 194 (H.B. 815), § 1, effective September 1, 1977; am. Acts 1983, 68th Leg., ch. 629 (S.B. 964), § 1, effective September 1, 1983; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 7, effective May 30, 1995; am. Acts 2001, 77th Leg., ch. 388 (H.B. 688), § 2, effective May 28, 2001.)

SUBCHAPTER D
OTHER MISCELLANEOUS PROVISIONS

Sec. 109.59. Application of Distance Requirements.

(a) If at the time an original alcoholic beverage permit or license is granted for a premises the premises satisfies the requirements regarding distance from schools, churches, and other types of premises established in this code and any other law or ordinance of the state or a political subdivision of the state in effect at that time, the premises shall be deemed to satisfy the distance requirements for all subsequent renewals of the license or permit.

(b) On the sale or transfer of the premises or the business on the premises in which a new original license or permit is required for the premises, the premises shall be deemed to satisfy any distance requirements as if the issuance of the new original permit or license were a renewal of a previously held permit or license.

(c) Subsection (b) does not apply to the satisfaction of the distance requirement prescribed by Section 109.33(a)(2) for a public school, except that on the death of a permit or license holder or a person having an interest in a permit or license Subsection (b) does apply to the holder's surviving spouse or child of the holder or person if the spouse or child

qualifies as a successor in interest to the permit or license.

(d) Subsection (a) does not apply to the satisfaction of the distance requirement prescribed by Section 109.33(a)(2) for a public school if the holder's permit or license has been suspended for a violation occurring after September 1, 1995, of any of the following provisions:

(1) Section 11.61(b)(1), (6)—(11), (13), (14), or (20); or

(2) Section 61.71(a)(5)—(8), (11), (12), (14), (17), (18), (22), or (24).

(Enacted by Acts 1993, 73rd Leg., ch. 934 (H.B. 1445), § 93, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 8, effective May 30, 1995.)

Civil Practice and Remedies Code

TITLE 2
TRIAL, JUDGMENT, AND APPEAL

SUBTITLE A
GENERAL PROVISIONS

CHAPTER 6
GOVERNMENTAL EXEMPTION FROM BOND AND SECURITY REQUIREMENTS

Section
6.004. School Districts Exempt from Security for Court Costs and Appeal Bond.

Sec. 6.004. School Districts Exempt from Security for Court Costs and Appeal Bond.

A school district may institute and prosecute suits without giving security for cost and may appeal from judgment without giving supersedeas or cost bond. (Enacted by Acts 2011, 82nd Leg., ch. 243 (H.B. 942), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 243 (H.B. 942), § 2 provides: "Section 6.004, Civil Practice and Remedies Code, as added by this Act, applies only to a suit or appeal filed on or after the effective date of this Act [September 1, 2011]. A suit or appeal filed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

TITLE 5
GOVERNMENTAL LIABILITY

CHAPTER 101
TORT CLAIMS

Subchapter A. General Provisions

Section
101.001. Definitions.
101.002. Short Title.
101.003. Remedies Additional.

Subchapter B. Tort Liability of Governmental Units

101.021. Governmental Liability.
101.0211. No Liability for Joint Enterprise.
101.0215. Liability of a Municipality.
101.022. Duty Owed: Premise and Special Defects.
101.023. Limitation on Amount of Liability.
101.024. Exemplary Damages.
101.025. Waiver of Governmental Immunity; Permission to Sue.
101.026. Individual's Immunity Preserved.
101.027. Liability Insurance.
101.028. Workers' Compensation Insurance.
101.029. Liability for Certain Conduct of State Prison Inmates.

Subchapter C. Exclusions and Exceptions

101.051. School and Junior College Districts Partially Excluded.
101.052. Legislative.
101.053. Judicial.
101.054. State Military Personnel.
101.055. Certain Governmental Functions.
101.056. Discretionary Powers.
101.057. Civil Disobedience and Certain Intentional Torts.
101.058. Landowner's Liability.
101.059. Attractive Nuisances.
101.060. Traffic and Road Control Devices.
101.061. Tort Committed Before January 1, 1970.
101.062. 9-1-1 Emergency Service.
101.063. Members of Public Health District.
101.064. Land Acquired Under Foreclosure of Lien.
101.065. Negligence of Off-Duty Law Enforcement Officers.
101.066. Computer Date Failure.
101.067. Graffiti Removal.

Subchapter D. Procedures

101.101. Notice.
101.102. Commencement of Suit.
101.103. Legal Representation.
101.104. Evidence of Insurance Coverage.
101.105. Settlement.
101.106. Election of Remedies.
101.107. Payment and Collection of Judgment.
101.108. Ad Valorem Taxes for Payment of Judgment.
101.109. Payment of Claims Against Certain Universities.

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 101.001. Definitions.

In this chapter:

(1) "Emergency service organization" means:

(A) a volunteer fire department, rescue squad, or an emergency medical services provider that is:

(i) operated by its members; and

(ii) exempt from state taxes by being listed as an exempt organization under Section 151.310 or 171.083, Tax Code; or

(B) a local emergency management or homeland security organization that is:

(i) formed and operated as a state resource in accordance with the statewide homeland security strategy developed by the governor under Section 421.002, Government Code; and

(ii) responsive to the Texas Division of Emergency Management in carrying out an all-hazards emergency management program under Section 418.112, Government Code.

(2) "Employee" means a person, including an officer or agent, who is in the paid service of a governmental unit by competent authority, but does not include an independent contractor, an agent or employee of an independent contractor, or a person who performs tasks the details of which the governmental unit does not have the legal right to control.

(3) "Governmental unit" means:

(A) this state and all the several agencies of government that collectively constitute the government of this state, including other agencies bearing different designations, and all departments, bureaus, boards, commissions, offices, agencies, councils, and courts;

(B) a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority;

(C) an emergency service organization; and

(D) any other institution, agency, or organ of government the status and authority of which are derived from the Constitution of Texas or from laws passed by the legislature under the constitution.

(4) "Motor-driven equipment" does not include:

(A) equipment used in connection with the operation of floodgates or water release equipment by river authorities created under the laws of this state; or

(B) medical equipment, such as iron lungs, located in hospitals.

(5) "Scope of employment" means the performance for a governmental unit of the duties of an employee's office or employment and includes being in or about the performance of a task lawfully assigned to an employee by competent authority.

(6) "State government" means an agency, board, commission, department, or office, other than a district or authority created under Article XVI, Section 59, of the Texas Constitution, that:

(A) was created by the constitution or a statute of this state; and

(B) has statewide jurisdiction.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 693 (S.B. 1332), § 1, effective June 19, 1987; am. Acts 1991, 72nd Leg., ch. 476 (H.B. 2250), § 1, effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 827 (H.B. 2603), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 968 (H.B. 2169), § 1, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1101 (S.B. 1560), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1101 (S.B. 1560), § 2 provides: "The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act [June 17, 2011]. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 101.002. Short Title.

This chapter may be cited as the Texas Tort Claims Act.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.003. Remedies Additional.

The remedies authorized by this chapter are in addition to any other legal remedies.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

SUBCHAPTER B
TORT LIABILITY OF GOVERNMENTAL UNITS

Sec. 101.021. Governmental Liability.

A governmental unit in the state is liable for:

(1) property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within his scope of employment if:

(A) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and

(B) the employee would be personally liable to the claimant according to Texas law; and

(2) personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.0211. No Liability for Joint Enterprise.

(a) The common law doctrine of vicarious liability because of participation in a joint enterprise does not impose liability for a claim brought under this chapter on:

(1) a water district created pursuant to either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created; or

(2) a municipality with respect to the use of a municipal airport for space flight activities as defined by Section 100A.001 unless the municipality would otherwise be liable under Section 101.021.

(b) This section does not affect a limitation on liability or damages provided by this chapter, including a limitation under Section 101.023.

(Enacted by Acts 2001, 77th Leg., ch. 1423 (S.B. 1444), § 35, effective June 17, 2001; am. Acts 2013, 83rd Leg., ch. 50 (H.B. 278), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 50 (H.B. 278), § 3 provides: "The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act [September 1, 2013]. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 101.0215. Liability of a Municipality.

(a) A municipality is liable under this chapter for damages arising from its governmental functions, which are those functions that are enjoined on a municipality by law and are given it by the state as part of the state's sovereignty, to be exercised by the municipality in the interest of the general public, including but not limited to:

(1) police and fire protection and control;

(2) health and sanitation services;

(3) street construction and design;

(4) bridge construction and maintenance and street maintenance;

(5) cemeteries and cemetery care;

(6) garbage and solid waste removal, collection, and disposal;

(7) establishment and maintenance of jails;

(8) hospitals;

(9) sanitary and storm sewers;

(10) airports, including when used for space flight activities as defined by Section 100A.001;

(11) waterworks;

(12) repair garages;

(13) parks and zoos;

(14) museums;

(15) libraries and library maintenance;

(16) civic, convention centers, or coliseums;

(17) community, neighborhood, or senior citizen centers;

(18) operation of emergency ambulance service;

(19) dams and reservoirs;

(20) warning signals;

(21) regulation of traffic;

(22) transportation systems;

(23) recreational facilities, including but not limited to swimming pools, beaches, and marinas;

(24) vehicle and motor driven equipment maintenance;

(25) parking facilities;

(26) tax collection;

(27) firework displays;

(28) building codes and inspection;

(29) zoning, planning, and plat approval;

(30) engineering functions;

(31) maintenance of traffic signals, signs, and hazards;

(32) water and sewer service;

(33) animal control;

(34) community development or urban renewal activities undertaken by municipalities and authorized under Chapters 373 and 374, Local Government Code;

(35) latchkey programs conducted exclusively on a school campus under an interlocal agreement with the school district in which the school campus is located; and

(36) enforcement of land use restrictions under Subchapter E, Chapter 212, Local Government Code.

(b) This chapter does not apply to the liability of a municipality for damages arising from its proprietary functions, which are those functions that a

municipality may, in its discretion, perform in the interest of the inhabitants of the municipality, including but not limited to:

(1) the operation and maintenance of a public utility;

(2) amusements owned and operated by the municipality; and

(3) any activity that is abnormally dangerous or ultrahazardous.

(c) The proprietary functions of a municipality do not include those governmental activities listed under Subsection (a).

(Enacted by Acts 1987, 70th Leg., 1st C.S., ch. 2 (S.B. 5), § 3.02, effective September 2, 1987; am. Acts 1997, 75th Leg., ch. 152 (S.B. 1697), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1170 (S.B. 104), § 2, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1399 (H.B. 2580), § 1, effective June 16, 2001; am. Acts 2013, 83rd Leg., ch. 50 (H.B. 278), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 50 (H.B. 278), § 3 provides: "The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act [September 1, 2013]. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 101.022. Duty Owed: Premise and Special Defects.

(a) Except as provided in Subsection (c), if a claim arises from a premise defect, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property, unless the claimant pays for the use of the premises.

(b) The limitation of duty in this section does not apply to the duty to warn of special defects such as excavations or obstructions on highways, roads, or streets or to the duty to warn of the absence, condition, or malfunction of traffic signs, signals, or warning devices as is required by Section 101.060.

(c) If a claim arises from a premise defect on a toll highway, road, or street, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 2005, 79th Leg., ch. 281 (H.B. 2702), § 2.88, effective June 14, 2005.)

Sec. 101.023. Limitation on Amount of Liability.

(a) Liability of the state government under this chapter is limited to money damages in a maximum amount of $250,000 for each person and $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(b) Except as provided by Subsection (c), liability of a unit of local government under this chapter is limited to money damages in a maximum amount of $100,000 for each person and $300,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(c) Liability of a municipality under this chapter is limited to money damages in a maximum amount of $250,000 for each person and $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(d) Except as provided by Section 78.001, liability of an emergency service organization under this chapter is limited to money damages in a maximum amount of $100,000 for each person and $300,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., 1st C.S., ch. 2 (S.B. 5), § 3.03, effective September 2, 1987; am. Acts 1995, 74th Leg., ch. 827 (H.B. 2603), § 2, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 968 (H.B. 2169), § 2, effective September 1, 1997.)

Sec. 101.024. Exemplary Damages.

This chapter does not authorize exemplary damages.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.025. Waiver of Governmental Immunity; Permission to Sue.

(a) Sovereign immunity to suit is waived and abolished to the extent of liability created by this chapter.

(b) A person having a claim under this chapter may sue a governmental unit for damages allowed by this chapter.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.026. Individual's Immunity Preserved.

To the extent an employee has individual immunity from a tort claim for damages, it is not affected by this chapter.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.027. Liability Insurance.

(a) Each governmental unit other than a unit of state government may purchase insurance policies protecting the unit and the unit's employees against claims under this chapter. A unit of state government may purchase such a policy only to the extent that the unit is authorized or required to do so under other law.

(b) The policies may relinquish to the insurer the right to investigate, defend, compromise, and settle any claim under this chapter to which the insurance coverage extends.

(c) This state or a political subdivision of the state may not require an employee to purchase liability insurance as a condition of employment if the state or the political subdivision is insured by a liability insurance policy.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.01, effective September 1, 1999.)

Sec. 101.028. Workers' Compensation Insurance.

A governmental unit that has workers' compensation insurance or that accepts the workers' compensation laws of this state is entitled to the privileges and immunities granted by the workers' compensation laws of this state to private individuals and corporations.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.029. Liability for Certain Conduct of State Prison Inmates.

(a) The Department of Criminal Justice is liable for property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an inmate or state jail defendant housed in a facility operated by the department if:

(1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment;

(2) the inmate or defendant would be personally liable to the claimant for the property damage, personal injury, or death according to Texas law were the inmate or defendant a private person acting in similar circumstances; and

(3) the act, omission, or negligence was committed by the inmate or defendant acting in the course and scope of a task or activity that:

(A) the inmate or defendant performed at the request of an employee of the department; and

(B) the inmate or defendant performed under the control or supervision of the department.

(b) A claimant may not name the inmate or state jail defendant whose act or omission gave rise to the claim as a codefendant in an action brought under this section.

(c) A judgment in an action or a settlement of a claim against the Department of Criminal Justice under this section bars any action involving the same subject matter by the claimant against the inmate or state jail defendant whose act or omission gave rise to the claim. A judgment in an action or a settlement of a claim against an inmate or state jail defendant bars any action involving the same subject matter by the claimant against the Department of Criminal Justice under this section.

(d) This section does not apply to property damage, personal injury, or death sustained by an inmate or state jail defendant.

(Enacted by Acts 1995, 74th Leg., ch. 321 (H.B. 2162), § 1.108, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 313 (H.B. 681), § 1, effective September 1, 1999.)

SUBCHAPTER C
EXCLUSIONS AND EXCEPTIONS

Sec. 101.051. School and Junior College Districts Partially Excluded.

Except as to motor vehicles, this chapter does not apply to a school district or to a junior college district.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.052. Legislative.

This chapter does not apply to a claim based on an act or omission of the legislature or a member of the legislature acting in his official capacity or to the legislative functions of a governmental unit.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.053. Judicial.

(a) This chapter does not apply to a claim based on an act or omission of a court of this state or any member of a court of this state acting in his official capacity or to a judicial function of a governmental unit. "Official capacity" means all duties of office and includes administrative decisions or actions.

(b) This chapter does not apply to a claim based on an act or omission of an employee in the execution of a lawful order of any court.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., 1st C.S., ch. 2 (S.B. 5), § 3.04, effective September 2, 1987.)

Sec. 101.054. State Military Personnel.

This chapter does not apply to a claim arising from the activities of the state military forces when on active duty under the lawful orders of competent authority.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.055. Certain Governmental Functions.

This chapter does not apply to a claim arising:

(1) in connection with the assessment or collection of taxes by a governmental unit;

(2) from the action of an employee while responding to an emergency call or reacting to an emergency situation if the action is in compliance with the laws and ordinances applicable to emergency action, or in the absence of such a law or ordinance, if the action is not taken with conscious indifference or reckless disregard for the safety of others; or

(3) from the failure to provide or the method of providing police or fire protection.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., 1st C.S., ch. 2 (S.B. 5), § 3.05, effective September 2, 1987; am. Acts 1995, 74th Leg., ch. 139 (H.B. 383), § 1, effective September 1, 1995.)

Sec. 101.056. Discretionary Powers.

This chapter does not apply to a claim based on:

(1) the failure of a governmental unit to perform an act that the unit is not required by law to perform; or

(2) a governmental unit's decision not to perform an act or on its failure to make a decision on the performance or nonperformance of an act if the law leaves the performance or nonperformance of the act to the discretion of the governmental unit.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.057. Civil Disobedience and Certain Intentional Torts.

This chapter does not apply to a claim:

(1) based on an injury or death connected with any act or omission arising out of civil disobedience, riot, insurrection, or rebellion; or

(2) arising out of assault, battery, false imprisonment, or any other intentional tort, including a tort involving disciplinary action by school authorities.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.058. Landowner's Liability.

To the extent that Chapter 75 limits the liability of a governmental unit under circumstances in which the governmental unit would be liable under this chapter, Chapter 75 controls.

(Enacted by Acts 1995, 74th Leg., ch. 520 (H.B. 2085), § 4, effective August 28, 1995.)

Sec. 101.059. Attractive Nuisances.

This chapter does not apply to a claim based on the theory of attractive nuisance.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.060. Traffic and Road Control Devices.

(a) This chapter does not apply to a claim arising from:

(1) the failure of a governmental unit initially to place a traffic or road sign, signal, or warning device if the failure is a result of discretionary action of the governmental unit;

(2) the absence, condition, or malfunction of a traffic or road sign, signal, or warning device unless the absence, condition, or malfunction is not corrected by the responsible governmental unit within a reasonable time after notice; or

(3) the removal or destruction of a traffic or road sign, signal, or warning device by a third person unless the governmental unit fails to correct the removal or destruction within a reasonable time after actual notice.

(b) The signs, signals, and warning devices referred to in this section are those used in connection with hazards normally connected with the use of the roadway.

(c) This section does not apply to the duty to warn of special defects such as excavations or roadway obstructions.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.061. Tort Committed Before January 1, 1970.

This chapter does not apply to a claim based on an act or omission that occurred before January 1, 1970.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.062. 9-1-1 Emergency Service.

(a) In this section, "9-1-1 service" and "public agency" have the meanings assigned those terms by Section 771.001, Health and Safety Code.

(b) This chapter applies to a claim against a public agency that arises from an action of an

employee of the public agency or a volunteer under direction of the public agency and that involves providing 9-1-1 service or responding to a 9-1-1 emergency call only if the action violates a statute or ordinance applicable to the action.
(Enacted by Acts 1987, 70th Leg., ch. 236 (H.B. 911), § 2, effective August 31, 1987; am. Acts 1991, 72nd Leg., ch. 14 (S.B. 404), § 284(3), effective September 1, 1991.)

Sec. 101.063. Members of Public Health District.

A governmental unit that is a member of a public health district is not liable under this chapter for any conduct of the district's personnel or for any condition or use of the district's property.
(Enacted by Acts 1991, 72nd Leg., ch. 476 (H.B. 2250), § 2, effective August 26, 1991.)

Sec. 101.064. Land Acquired Under Foreclosure of Lien.

(a) This section applies only to a municipality that acquires land at a sale following the foreclosure of a lien held by the municipality.

(b) This chapter does not apply to a claim that:

(1) arises after the date the land was acquired and before the date the land is sold, conveyed, or exchanged by the municipality; and

(2) arises from:

(A) the condition of the land;

(B) a premises defect on the land; or

(C) an action committed by any person, other than an agent or employee of the municipality, on the land.

(c) In this section, the term "land" includes any building or improvement located on land acquired by a municipality.
(Enacted by Acts 1995, 74th Leg., ch. 139 (H.B. 383), § 5, effective September 1, 1995; Enacted by Acts 1995, 74th Leg., ch. 442 (H.B. 741), § 1, effective June 9, 1995; am. Acts 1997, 75th Leg., ch. 712 (H.B. 110), § 2, effective June 17, 1997.)

Sec. 101.065. Negligence of Off-Duty Law Enforcement Officers.

This chapter does not apply to the wrongful act or omission or the negligence of an officer commissioned by the Department of Public Safety if the officer was not on active duty at the time the act, omission, or negligence occurred. This section applies without regard to whether the officer was wearing a uniform purchased under Section 411.0078, Government Code, at the time the act, omission, or negligence occurred.
(Enacted by Acts 1995, 74th Leg., ch. 738 (H.B. 2226), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(9), effective September 1, 1997 (renumbered from Sec. 101.058).)

Sec. 101.066. Computer Date Failure.

This chapter does not apply to a claim for property damage caused by a computer date failure as described by Section 147.003.
(Enacted by Acts 1999, 76th Leg., ch. 128 (S.B. 598), § 3, effective May 19, 1999.)

Sec. 101.067. Graffiti Removal.

This chapter does not apply to a claim for property damage caused by the removal of graffiti under Section 250.006, Local Government Code.
(Enacted by Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 27, effective September 1, 2009.)

SUBCHAPTER D PROCEDURES

Sec. 101.101. Notice.

(a) A governmental unit is entitled to receive notice of a claim against it under this chapter not later than six months after the day that the incident giving rise to the claim occurred. The notice must reasonably describe:

(1) the damage or injury claimed;

(2) the time and place of the incident; and

(3) the incident.

(b) A city's charter and ordinance provisions requiring notice within a charter period permitted by law are ratified and approved.

(c) The notice requirements provided or ratified and approved by Subsections (a) and (b) do not apply if the governmental unit has actual notice that death has occurred, that the claimant has received some injury, or that the claimant's property has been damaged.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.102. Commencement of Suit.

(a) A suit under this chapter shall be brought in state court in the county in which the cause of action or a part of the cause of action arises.

(b) The pleadings of the suit must name as defendant the governmental unit against which liability is to be established.

(c) In a suit against the state, citation must be served on the secretary of state. In other suits, citation must be served as in other civil cases unless no method of service is provided by law, in which case service may be on the administrative head of the governmental unit being sued. If the adminis-

trative head of the governmental unit is not available, the court in which the suit is pending may authorize service in any manner that affords the governmental unit a fair opportunity to answer and defend the suit.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., 1st C.S., ch. 2 (S.B. 5), § 3.06, effective September 2, 1987.)

Sec. 101.103. Legal Representation.

(a) The attorney general shall defend each action brought under this chapter against a governmental unit that has authority and jurisdiction coextensive with the geographical limits of this state. The attorney general may be fully assisted by counsel provided by an insurance carrier.

(b) A governmental unit having an area of jurisdiction smaller than the entire state shall employ its own counsel according to the organic act under which the unit operates, unless the governmental unit has relinquished to an insurance carrier the right to defend against the claim.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.104. Evidence of Insurance Coverage.

(a) Neither the existence nor the amount of insurance held by a governmental unit is admissible in the trial of a suit under this chapter.

(b) Neither the existence nor the amount of the insurance is subject to discovery.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.105. Settlement.

(a) A cause of action under this chapter may be settled and compromised by the governmental unit if, in a case involving the state the governor determines, or if, in other cases the governing body of the governmental unit determines, that the compromise is in the best interests of the governmental unit.

(b) Approval is not required if the governmental unit has acquired insurance under this chapter.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.106. Election of Remedies.

(a) The filing of a suit under this chapter against a governmental unit constitutes an irrevocable election by the plaintiff and immediately and forever bars any suit or recovery by the plaintiff against any individual employee of the governmental unit regarding the same subject matter.

(b) The filing of a suit against any employee of a governmental unit constitutes an irrevocable election by the plaintiff and immediately and forever bars any suit or recovery by the plaintiff against the governmental unit regarding the same subject matter unless the governmental unit consents.

(c) The settlement of a claim arising under this chapter shall immediately and forever bar the claimant from any suit against or recovery from any employee of the same governmental unit regarding the same subject matter.

(d) A judgment against an employee of a governmental unit shall immediately and forever bar the party obtaining the judgment from any suit against or recovery from the governmental unit.

(e) If a suit is filed under this chapter against both a governmental unit and any of its employees, the employees shall immediately be dismissed on the filing of a motion by the governmental unit.

(f) If a suit is filed against an employee of a governmental unit based on conduct within the general scope of that employee's employment and if it could have been brought under this chapter against the governmental unit, the suit is considered to be against the employee in the employee's official capacity only. On the employee's motion, the suit against the employee shall be dismissed unless the plaintiff files amended pleadings dismissing the employee and naming the governmental unit as defendant on or before the 30th day after the date the motion is filed.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), § 11.05, effective September 1, 2003.)

Sec. 101.107. Payment and Collection of Judgment.

(a) A judgment in a suit under this chapter may be enforced only in the same manner and to the same extent as other judgments against the governmental unit are enforceable as provided by law, unless the governmental unit has liability or indemnity insurance protection, in which case the holder of the judgment may collect the judgment, to the extent of the insurer's liability, as provided in the insurance or indemnity contract or policy or as otherwise provided by law.

(b) A judgment or a portion of a judgment that is not payable by an insurer need not be paid by a governmental unit until the first fiscal year following the fiscal year in which the judgment becomes final.

(c) If in a fiscal year the aggregate amount of judgments under this chapter against a governmental unit that become final, excluding the amount

payable by an insurer, exceeds one percent of the unit's budgeted tax funds for the fiscal year, excluding general obligation debt service requirements, the governmental unit may pay the judgments in equal annual installments for a period of not more than five years. If payments are extended under this subsection, the governmental unit shall pay interest on the unpaid balance at the rate provided by law.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.108. Ad Valorem Taxes for Payment of Judgment.

(a) A governmental unit not fully covered by liability insurance may levy an ad valorem tax for the payment of any final judgment under this chapter.

(b) If necessary to pay the amount of a judgment, the ad valorem tax rate may exceed any legal tax rate limit applicable to the governmental unit except a limit imposed by the constitution.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 101.109. Payment of Claims Against Certain Universities.

A claim under this chapter against a state-supported senior college or university is payable only by a direct legislative appropriation made to satisfy claims unless insurance has been acquired as provided by this chapter. If insurance has been acquired, the claimant is entitled to payment to the extent of the coverage as in other cases.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

CHAPTER 102
TORT CLAIMS PAYMENTS BY LOCAL GOVERNMENTS

Section

Sec. 102.001. Definitions.

In this chapter:

(1) "Employee" includes an officer, volunteer, or employee, a former officer, volunteer, or employee, and the estate of an officer, volunteer, or employee or former officer, volunteer, or employee of a local government. The term includes a member of a governing board. The term does not include a county extension agent.

(2) "Local government" means a county, city, town, special purpose district, including a soil and water conservation district, and any other political subdivision of the state.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., 1st C.S., ch. 2 (S.B. 5), § 3.07, effective September 2, 1987; am. Acts 1999, 76th Leg., ch. 1115 (H.B 3624), § 1, effective June 18, 1999; am. Acts 2007, 80th Leg., ch. 996 (S.B. 1613), § 1, effective June 15, 2007.)

Sec. 102.002. Payment of Certain Tort Claims.

(a) A local government may pay actual damages awarded against an employee of the local government if the damages:

(1) result from an act or omission of the employee in the course and scope of his employment for the local government; and

(2) arise from a cause of action for negligence.

(b) The local government may also pay the court costs and attorney's fees awarded against an employee for whom the local government may pay damages under this section.

(c) Except as provided by Subsection (e), a local government may not pay damages awarded against an employee that:

(1) arise from a cause of action for official misconduct; or

(2) arise from a cause of action involving a wilful or wrongful act or omission or an act or omission constituting gross negligence.

(d) A local government may not pay damages awarded against an employee to the extent the damages are recoverable under an insurance contract or a self-insurance plan authorized by statute.

(e) A local government that does not give a bond under Section 702(b), Texas Probate Code, shall pay damages awarded against an employee of the local government arising from a cause of action described by Subsection (c) if the liability results from the employee's appointment as guardian of the person or estate of a ward under the Texas Probate Code and the action or omission for which the employee was found liable was in the course and scope of the person's employment with the local government.
(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1997, 75th Leg., ch. 924 (S.B. 318), § 3, effective September 1, 1997.)

Sec. 102.003. Maximum Payments.

Payments under this chapter by a local government may not exceed:

(1) $100,000 to any one person or $300,000 for any single occurrence in the case of personal injury or death; or

(2) $10,000 for a single occurrence of property damage, unless the local government is liable in the local government's capacity as guardian under the Texas Probate Code and does not give a bond under Section 702(b), Texas Probate Code, in which event payments may not exceed the amount of the actual property damages.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1997, 75th Leg., ch. 924 (S.B. 318), § 4, effective September 1, 1997.)

Sec. 102.004. Defense Counsel.

(a) A local government may provide legal counsel to represent a defendant for whom the local government may pay damages under this chapter. The counsel provided by the local government may be the local government's regularly employed counsel, unless there is a potential conflict of interest between the local government and the defendant, in which case the local government may employ other legal counsel to defend the suit.

(b) Legal counsel provided under this section may settle the portion of a suit that may result in the payment of damages by the local government under this chapter.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 102.005. Security for Court Costs Not Required.

In a case defended under this chapter, neither the defendant nor a local government is required to advance security for costs or to give bond on appeal or writ of error.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 102.006. Other Laws Not Affected.

This chapter does not affect:

(1) Chapter 101 of this code (the Texas Tort Claims Act); or

(2) a defense, immunity, or jurisdictional bar available to a local government or an employee.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

CHAPTER 106
DISCRIMINATION BECAUSE OF RACE, RELIGION, COLOR, SEX, OR NATIONAL ORIGIN

Section

Sec. 106.001. Prohibited Acts.

(a) An officer or employee of the state or of a political subdivision of the state who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

(1) refuse to issue to the person a license, permit, or certificate;

(2) revoke or suspend the person's license, permit, or certificate;

(3) refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state;

(4) refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state;

(5) refuse to grant a benefit to the person;

(6) impose an unreasonable burden on the person; or

(7) refuse to award a contract to the person.

(b) This section does not apply to a public school official who is acting under a plan reasonably designed to end discriminatory school practices.

(c) This section does not prohibit the adoption of a program designed to increase the participation of businesses owned and controlled by women, minorities, or disadvantaged persons in public contract awards.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 1058 (S.B. 482), § 1, effective August 31, 1987; am. Acts 1991, 72nd Leg., ch. 597 (S.B. 992), § 56, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 665 (H.B. 338), § 1, effective June 16, 1991; am. Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.02, effective September 1, 1999.)

Sec. 106.002. Remedies.

(a) If a person has violated or there are reasonable grounds to believe a person is about to violate Section 106.001, the person aggrieved by the violation or threatened violation may sue for preventive relief, including a permanent or temporary injunction, a restraining order, or any other order.

(b) In an action under this section, unless the state is the prevailing party, the court may award the prevailing party reasonable attorney's fees as a part of the costs. The state's liability for costs is the same as that of a private person.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 106.003. Penalties.

(a) A person commits an offense if the person knowingly violates Section 106.001.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than one year; or

(3) both the fine and confinement.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 106.004. Inapplicability to Certain Claims.

This chapter does not authorize a claim for preventive relief against the Texas Department of Criminal Justice, an employee of the department, or any other agency, agent, employee, or officer of this state if:

(1) the claim is brought by a person housed in a facility operated by or under contract with the department; and

(2) the claim accrued while the person was housed in the facility.

(Enacted by Acts 1995, 74th Leg., ch. 378 (H.B. 1343), § 4, effective June 8, 1995.)

TITLE 6

MISCELLANEOUS PROVISIONS

CHAPTER 129
AGE OF MAJORITY

Section

Sec. 129.001. Age of Majority.

The age of majority in this state is 18 years.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 129.002. Rights, Privileges, or Obligations.

A law, rule, or ordinance enacted or adopted before August 27, 1973, that extends a right, privilege, or obligation to an individual on the basis of a minimum age of 19, 20, or 21 years shall be interpreted as prescribing a minimum age of 18 years.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Sec. 129.003. Alcoholic Beverage Code Prevails.

The minimum age provisions of the Alcoholic Beverage Code prevail to the extent of any conflict with this chapter.

(Enacted by Acts 1985, 69th Leg., ch. 959 (S.B. 797), § 1, effective September 1, 1985.)

Code of Criminal Procedure

TITLE 1
CODE OF CRIMINAL PROCEDURE OF 1965

Arrest, Commitment and Bail

CHAPTER 15
ARREST UNDER WARRANT

Article
15.27. Notification to Schools Required.

Art. 15.27. Notification to Schools Required.

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination.

(a-1) The superintendent or a person designated by the superintendent in the school district shall send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a).

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or before the next school day, whichever is earlier. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred

prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier, notify the superintendent or a person designated by the superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal or a school employee designated by the principal of the school to which the student transfers or is returned of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal of the school to which the student transfers or is returned shall, within 24 hours of receiving notification under this subsection or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

(d) [Repealed by Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), § 5, effective June 15, 2007 and Acts 2007, 80th Leg., ch. 1291 (S.B. 6), § 8, effective September 1, 2007.]

(e) (1) A law enforcement agency that arrests, or refers to a juvenile court under Chapter 52, Family Code, an individual who the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal shall send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (a-1) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary alternative education program under Section 37.006, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

(2) the court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

(h) This article applies to any felony offense and the following misdemeanors:

(1) an offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, Penal Code;

(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code; or

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)—(14) or (16), Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code.

(i) A person may substitute electronic notification for oral notification where oral notification is required by this article. If electronic notification is substituted for oral notification, any written notification required by this article is not required.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

(k) Oral or written notice required under this article must include all pertinent details of the offense or conduct, including details of any:

(1) assaultive behavior or other violence;

(2) weapons used in the commission of the offense or conduct; or

(3) weapons possessed during the commission of the offense or conduct.

(*l*) If a school district board of trustees learns of a failure by the superintendent of the district or a district principal to provide a notice required under Subsection (a), (a-1), or (b), the board of trustees shall report the failure to the State Board for Educator Certification. If the governing body of a private primary or secondary school learns of a failure by the principal of the school to provide a notice required under Subsection (e), and the principal holds a certificate issued under Subchapter B, Chapter 21, Education Code, the governing body shall report the failure to the State Board for Educator Certification.

(m) If the superintendent of a school district in which the student is enrolled learns of a failure of the head of a law enforcement agency or a person designated by the head of the agency to provide a notification under Subsection (a), the superintendent or principal shall report the failure to notify to the Texas Commission on Law Enforcement.

(n) If a juvenile court judge or official designated by the juvenile board learns of a failure by the office of the prosecuting attorney to provide a notification required under Subsection (b) or (g), the official shall report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

(o) If the supervisor of a parole, probation, or community supervision department officer learns of a failure by the officer to provide a notification under Subsection (c), the supervisor shall report the failure to notify to the director of the entity that employs the officer.

(Enacted by Acts 1993, 73rd Leg., ch. 461 (H.B. 23), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 14.18, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 626 (H.B. 1687), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 12.02, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), §§ 12, 13, 14, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1233 (H.B. 1150), § 1, effective June 20, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), §§ 48, 49, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1055 (H.B. 1314), §§ 25, 26, 27, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 31, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 492 (S.B. 230), § 1, effective June 16, 2007; am. Acts 2007, 80th Leg., ch. 1240 (H.B. 2532), §§ 4, 5, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1291 (S.B. 6), §§ 1, 8, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 6.002, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 992 (H.B. 1907), §§ 1, 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 93 (S.B. 686), § 2.07, effective May 18, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 992 (H.B. 1907), § 3 provides: "The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act [September 1, 2011]. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs before the effective date of this Act if any element of the offense or conduct occurs before that date."

Proceedings After Verdict

CHAPTER 42
JUDGMENT AND SENTENCE

Art. 42.018. Notice Provided by Clerk of Court.

(a) This article applies only:

(1) to conviction or deferred adjudication granted on the basis of:

(A) an offense under Title 5, Penal Code; or

(B) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62; and

(2) if the victim of the offense is under 18 years of age.

(b) Not later than the fifth day after the date a person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, is convicted or granted deferred adjudication on the basis of an offense, the clerk of the court in which the conviction or deferred adjudication is entered shall provide to the State Board for Educator Certification written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

(Enacted by Acts 2003, 78th Leg., ch. 920 (S.B. 1109), § 2, effective June 20, 2003.)

Justice and Corporation Courts

CHAPTER 45
JUSTICE AND MUNICIPAL COURTS

Subchapter B. Procedures for Justice and Municipal Courts

SUBCHAPTER B
PROCEDURES FOR JUSTICE AND MUNICIPAL COURTS

Art. 45.054. Failure to Attend School Proceedings.

(a) On a finding by a county, justice, or municipal court that an individual has committed an offense under Section 25.094, Education Code, the court has jurisdiction to enter an order that includes one or more of the following provisions requiring that:

(1) the individual:

(A) attend school without unexcused absences;

(B) attend a preparatory class for the high school equivalency examination administered under Section 7.111, Education Code, if the court determines that the individual is too old to do well in a formal classroom environment; or

(C) if the individual is at least 16 years of age, take the high school equivalency examination administered under Section 7.111, Education Code;

(2) the individual attend a special program that the court determines to be in the best interest of the individual, including:

(A) an alcohol and drug abuse program;

(B) a rehabilitation program;

(C) a counseling program, including self-improvement counseling;

(D) a program that provides training in self-esteem and leadership;

(E) a work and job skills training program;

(F) a program that provides training in parenting, including parental responsibility;

(G) a program that provides training in manners;

(H) a program that provides training in violence avoidance;

(I) a program that provides sensitivity training; and

(J) a program that provides training in advocacy and mentoring;

(3) the individual and the individual's parent attend a class for students at risk of dropping out of school designed for both the individual and the individual's parent;

(4) the individual complete reasonable community service requirements; or

(5) for the total number of hours ordered by the court, the individual participate in a tutorial program covering the academic subjects in which the student is enrolled provided by the school the individual attends.

(a-1) On a finding by a juvenile court in a county with a population of less than 100,000 that the individual has engaged in conduct that violates Section 25.094, Education Code, the court has jurisdiction to enter an order that includes one or more of the provisions listed under Subsection (a).

(a-2) An order under Subsection (a) may not require a student to attend a juvenile justice alternative education program.

(b) An order under Subsection (a)(3) that requires the parent of an individual to attend a class for students at risk of dropping out of school is enforceable in the justice, municipal, or juvenile court by contempt.

(c) A court having jurisdiction under this article shall endorse on the summons issued to the parent of the individual who is the subject of the hearing an order directing the parent to appear personally at the hearing and directing the person having custody of the individual to bring the individual to the hearing.

(d) An individual commits an offense if the individual is a parent who fails to attend a hearing under this article after receiving notice under Subsection (c) that the individual's attendance is required. An offense under this subsection is a Class C misdemeanor.

(e) On the commencement of proceedings under this article, the court shall inform the individual who is the subject of the hearing and the individual's parent in open court of the individual's expunction rights and provide the individual and the individual's parent with a written copy of Article 45.055.

(f) In addition to any other order authorized by this article, the court may order the Department of Public Safety to suspend the driver's license or permit of the individual who is the subject of the hearing or, if the individual does not have a license or permit, to deny the issuance of a license or permit to the individual for a period specified by the court not to exceed 365 days.

(g) A dispositional order under this article is effective for the period specified by the court in the order but may not extend beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

(h) In this article, "parent" includes a person standing in parental relation.

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article; or

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

(j) A county, justice, or municipal court may waive or reduce a fee or court cost imposed under this article if the court finds that payment of the fee or court cost would cause financial hardship.

(Enacted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 9, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 14, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 180 (H.B. 829), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 2, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 6, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1098 (S.B. 1330), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Art. 45.055. Expunction of Conviction and Records in Failure to Attend School Cases.

(a) Except as provided by Subsection (e), an individual convicted of not more than one violation of Section 25.094, Education Code, may, on or after the individual's 18th birthday, apply to the court in which the individual was convicted to have the conviction and records relating to the conviction expunged.

(b) To apply for an expunction, the applicant must submit a written request that:

(1) is made under oath;

(2) states that the applicant has not been convicted of more than one violation of Section 25.094, Education Code; and

(3) is in the form determined by the applicant.

(c) The court may expunge the conviction and records relating to the conviction without a hearing or, if facts are in doubt, may order a hearing on the application. If the court finds that the applicant has not been convicted of more than one violation of Section 25.094, Education Code, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the applicant's record. After entry of the order, the applicant is released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose. The court shall inform the applicant of the court's decision on the application.

(d) The court shall require an individual who files an application under this article to pay a fee in the amount of $30 to defray the cost of notifying state agencies of orders of expunction under this article.

(e) A court shall expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under Article 45.054; or

(2) before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

(Enacted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 9, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 15, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 886 (S.B. 1426), § 3, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 7, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1098 (S.B. 1330), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Art. 45.056. Juvenile Case Managers.

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1213]** On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians;

(2) employ one or more juvenile case managers who:

(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and

(B) may provide:

(i) prevention services to a child considered at risk of entering the juvenile justice system; and

(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager to provide services described by Subdivisions (1) and (2).

(a) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1407]** On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or

(2) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

(b) A local entity may apply or more than one local entity may jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers from funds appropriated to the governor's office or otherwise available for that purpose. To be eligible for reimbursement, the entity applying must present to the governor's office a comprehensive plan to reduce juvenile crimes in the entity's jurisdiction that addresses the role of the case manager in that effort.

(c) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1213]** An entity that jointly employs a case manager under Subsection (a)(3) employs a juvenile case manager for purposes of Chapter 102 of this code and Chapter 102, Government Code.

(c) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1407]** A county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council may employ one or more juvenile case managers who:

(1) shall assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and

(2) may provide:

(A) prevention services to a child considered at-risk of entering the juvenile justice system; and

(B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.

(d) Pursuant to Article 102.0174, the court or governing body may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.

(e) A juvenile case manager employed under Subsection (c) shall give priority to cases brought under Sections 25.093 and 25.094, Education Code.

(f) The governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide:

(1) a code of ethics, and for the enforcement of the code of ethics;

(2) appropriate educational preservice and in-service training standards for juvenile case managers; and

(3) training in:

(A) the role of the juvenile case manager;

(B) case planning and management;

(C) applicable procedural and substantive law;

(D) courtroom proceedings and presentation;

(E) services to at-risk youth under Subchapter D, Chapter 264, Family Code;

(F) local programs and services for juveniles and methods by which juveniles may access those programs and services; and

(G) detecting and preventing abuse, exploitation, and neglect of juveniles.

(g) The employing court or governmental entity under this article shall implement the rules adopted under Subsection (f).

(h) The commissioners court or governing body of the municipality that administers a juvenile case manager fund under Article 102.0174 shall require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f).

(i) The juvenile case manager shall timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge any information or recommenda-

tions relevant to assisting the judge in making decisions that are in the best interest of the child.

(j) The judge who is assigned to the case shall consult with the juvenile case manager who is supervising the case regarding:

(1) the child's home environment;

(2) the child's developmental, psychological, and educational status;

(3) the child's previous interaction with the justice system; and

(4) any sanctions available to the court that would be in the best interest of the child.

(k) Subsections (i) and (j) do not apply to:

(1) a part-time judge; or

(2) a county judge of a county court that has one or more appointed full-time magistrates under Section 54.1172, Government Code.

(Enacted by Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 9, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 33, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 34, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 868 (S.B. 61), §§ 1, 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1055 (S.B. 209), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 16, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(8), 22.002(4), effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1213 (S.B. 1419), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 7, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1055 (S.B. 209), § 2 provides: "The changes in law made by this Act to Article 45.056, Code of Criminal Procedure, apply to a juvenile case manager employed on or after the effective date of this Act, regardless of whether the juvenile case manager began that employment before, on, or after the effective date of this Act [September 1, 2011]."

Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Acts 2013, 83rd Leg., ch. 1213, § 4 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date."

Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Miscellaneous Proceedings

CHAPTER 62
SEX OFFENDER REGISTRATION PROGRAM

Subchapter A. General Provisions

Subchapter B. Registration and Verification Requirements; Related Notice

Subchapter C. Expiration of Duty to Register; General Penalties for Noncompliance

Subchapter D. Provisions Applicable to Certain Workers and Students

SUBCHAPTER A
GENERAL PROVISIONS

Art. 62.001. Definitions.

In this chapter:

(1) "Department" means the Department of Public Safety.

(2) "Local law enforcement authority" means, as applicable, the office of the chief of police of a municipality, the office of the sheriff of a county in this state, or a centralized registration authority.

(3) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.

(4) "Released" means discharged, paroled, placed in a nonsecure community program for juvenile offenders, or placed on juvenile probation, community supervision, or mandatory supervision.

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), (E), or (K);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C),

(D), (E), (G), (J), or (K), but not if the violation results in a deferred adjudication;

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code; or

(K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code.

(6) "Sexually violent offense" means any of the following offenses committed by a person 17 years of age or older:

(A) an offense under Section 21.02 (Continuous sexual abuse of young child or children), 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 22.021 (Aggravated sexual assault), Penal Code;

(B) an offense under Section 43.25 (Sexual performance by a child), Penal Code;

(C) an offense under Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

(7) "Residence" includes a residence established in this state by a person described by Article 62.152(e).

(8) "Public or private institution of higher education" includes a college, university, community college, or technical or trade institute.

(9) "Authority for campus security" means the authority with primary law enforcement jurisdiction over property under the control of a public or private institution of higher education, other than a local law enforcement authority.

(10) "Extrajurisdictional registrant" means a person who:

(A) is required to register as a sex offender under:

(i) the laws of another state with which the department has entered into a reciprocal registration agreement;

(ii) federal law or the Uniform Code of Military Justice; or

(iii) the laws of a foreign country; and

(B) is not otherwise required to register under this chapter because:

(i) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to the elements of an offense requiring registration under this chapter; or

(ii) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to the elements of an offense requiring registration under this chapter.

(11) "Centralized registration authority" means a mandatory countywide registration location designated under Article 62.0045.

(12) "Online identifier" means electronic mail address information or a name used by a person when sending or receiving an instant message, social networking communication, or similar Internet communication or when participating in an Internet chat. The term includes an assumed name, nickname, pseudonym, moniker, or user name established by a person for use in connection with an electronic mail address, chat or instant chat room platform, commercial social networking site, or online picture-sharing service.

(Am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.01); am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), §§ 3.22(a),(b), 3.23, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 3.002(a), effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 566 (S.B. 2048), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 2.10, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(4), effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 233 (H.B. 530), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter

regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 7.01 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Art. 62.0015. Presumption Regarding Parentage [Renumbered].

Renumbered to Tex. Code of Crim. Proc. art. 63.0015 by Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(3), effective September 1, 2009.

Art. 62.002. Applicability of Chapter.

(a) This chapter applies only to a reportable conviction or adjudication occurring on or after September 1, 1970.

(b) Except as provided by Subsection (c), the duties imposed on a person required to register under this chapter on the basis of a reportable conviction or adjudication, and the corresponding duties and powers of other entities in relation to the person required to register on the basis of that conviction or adjudication, are not affected by:

(1) an appeal of the conviction or adjudication; or

(2) a pardon of the conviction or adjudication.

(c) If a conviction or adjudication that is the basis of a duty to register under this chapter is set aside on appeal by a court or if the person required to register under this chapter on the basis of a conviction or adjudication receives a pardon on the basis of subsequent proof of innocence, the duties imposed on the person by this chapter and the corresponding duties and powers of other entities in relation to the person are terminated.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.003. Determination Regarding Substantially Similar Elements of Offense.

(a) For the purposes of this chapter, the department is responsible for determining whether an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice contains elements that are substantially similar to the elements of an offense under the laws of this state.

(b) The department annually shall provide or make available to each prosecuting attorney's office in this state:

(1) the criteria used in making a determination under Subsection (a); and

(2) any existing record or compilation of offenses under the laws of another state, federal law, the laws of a foreign country, and the Uniform Code of Military Justice that the department has already determined to contain elements that are substantially similar to the elements of offenses under the laws of this state.

(c) An appeal of a determination made under this article shall be brought in a district court in Travis County.

(Am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.0101).)

Art. 62.004. Determination Regarding Primary Registration Authority.

(a) Except as provided by Subsection (a-1), for each person subject to registration under this chapter, the department shall determine which local law enforcement authority serves as the person's primary registration authority based on the municipality or county in which the person resides or, as provided by Article 62.152, the municipality or county in which the person works or attends school.

(a-1) Notwithstanding any other provision of this chapter, if a person resides or, as described by Article 62.152, works or attends school in a county with a centralized registration authority, the centralized registration authority serves as the person's primary registration authority under this chapter, regardless of whether the person resides, works, or attends school, as applicable, in any municipality located in that county.

(b) The department shall notify each person subject to registration under this chapter of the person's primary registration authority in a timely manner.

(Am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.0102); am. Acts 2009, 81st Leg., ch. 566 (S.B. 2048), § 2, effective June 19, 2009.)

Art. 62.0045. Centralized Registration Authority.

(a) The commissioners court of a county may designate the office of the sheriff of the county or may, through interlocal agreement, designate the office of a chief of police of a municipality in that county to serve as a mandatory countywide registration location for persons subject to this chapter.

(b) Notwithstanding any other provision of this chapter, a person subject to this chapter is required to perform the registration and verification requirements of Articles 62.051 and 62.058 and the change of address requirements of Article 62.055 only with respect to the centralized registration authority for

the county, regardless of whether the person resides in any municipality located in that county. If the person resides in a municipality, and the local law enforcement authority in the municipality does not serve as the person's centralized registration authority, the centralized registration authority, not later than the third day after the date the person registers or verifies registration or changes address with that authority, shall provide to the local law enforcement authority in that municipality notice of the person's registration, verification of registration, or change of address, as applicable, with the centralized registration authority.

(c) This section does not affect a person's duty to register with secondary sex offender registries under this chapter, such as those described by Articles 62.059 and 62.153.

(Enacted by Acts 2009, 81st Leg., ch. 566 (S.B. 2048), § 3, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1036 (H.B. 2825), § 1, effective June 14, 2013.)

Art. 62.005. Central Database; Public Information.

(a) The department shall maintain a computerized central database containing the information required for registration under this chapter. The department may include in the computerized central database the numeric risk level assigned to a person under this chapter.

(b) The information contained in the database, including the numeric risk level assigned to a person under this chapter, is public information, with the exception of any information:

(1) regarding the person's social security number or driver's license number, or any home, work, or cellular telephone number of the person;

(2) that is described by Article 62.051(c)(7) or required by the department under Article 62.051(c)(8), including any information regarding an employer's name, address, or telephone number; or

(3) that would identify the victim of the offense for which the person is subject to registration.

(c) Notwithstanding Chapter 730, Transportation Code, the department shall maintain in the database, and shall post on any department website related to the database, any photograph of the person that is available through the process for obtaining or renewing a personal identification certificate or driver's license under Section 521.103 or 521.272, Transportation Code. The department shall update the photograph in the database and on the website annually or as the photograph otherwise becomes available through the renewal process for the certificate or license.

(d) A local law enforcement authority shall release public information described under Subsection (b) to any person who requests the information from the authority. The authority may charge the person a fee not to exceed the amount reasonably necessary to cover the administrative costs associated with the authority's release of information to the person under this subsection.

(e) The department shall provide a licensing authority with notice of any person required to register under this chapter who holds or seeks a license that is issued by the authority. The department shall provide the notice required by this subsection as the applicable licensing information becomes available through the person's registration or verification of registration.

(f) On the written request of a licensing authority that identifies an individual and states that the individual is an applicant for or a holder of a license issued by the authority, the department shall release any information described by Subsection (a) to the licensing authority.

(g) For the purposes of Subsections (e) and (f):

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority; and

(B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues a license.

(h) Not later than the third day after the date on which the applicable information becomes available through the person's registration or verification of registration or under Article 62.058, the department shall send notice of any person required to register under this chapter who is or will be employed, carrying on a vocation, or a student at a public or private institution of higher education in this state to:

(1) for an institution in this state:

(A) the authority for campus security for that institution; or

(B) if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(i) the municipality in which the institution is located; or

(ii) the county in which the institution is located, if the institution is not located in a municipality; or

(2) for an institution in another state, any existing authority for campus security at that institution.

(i) On the written request of an institution of higher education described by Subsection (h) that identifies an individual and states that the individual has applied to work or study at the institution, the department shall release any information described by Subsection (a) to the institution.

(j) The department, for law enforcement purposes, shall release all relevant information described by Subsection (a), including information that is not public information under Subsection (b), to a peace officer, an employee of a local law enforcement authority, or the attorney general on the request of the applicable person or entity.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 3, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 521 (S.B. 369), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.006. Information Provided to Peace Officer on Request.

The department shall establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a driver's license number, personal identification certificate number, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register under this chapter or whether the license plate number is entered in the computerized central database under Article 62.005 as assigned to a vehicle owned or driven by a person required to register under this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.0061. Request for Online Identifiers by Social Networking Sites.

(a) On request by a commercial social networking site, the department may provide to the commercial social networking site:

(1) all public information that is contained in the database maintained under Article 62.005; and

(2) notwithstanding Article 62.005(b)(2), any online identifier established or used by a person who uses the site, is seeking to use the site, or is precluded from using the site.

(b) The department by rule shall establish a procedure through which a commercial social networking site may request information under Subsection (a), including rules regarding the eligibility of commercial social networking sites to request information under Subsection (a). The department shall consult with the attorney general, other appropriate state agencies, and other appropriate entities in adopting rules under this subsection.

(c) A commercial social networking site or the site's agent:

(1) may use information received under Subsection (a) only to:

(A) prescreen persons seeking to use the site; or

(B) preclude persons registered under this chapter from using the site; and

(2) may not use any information received under Subsection (a) that the networking site obtained solely under Subsection (a) in any manner not described by Subdivision (1).

(d) A commercial social networking site that uses information received under Subsection (a) in any manner not described by Subsection (c)(1) or that violates a rule adopted by the department under Subsection (b) is subject to a civil penalty of $1,000 for each misuse of information or rule violation. A commercial social networking site that is assessed a civil penalty under this article shall pay, in addition to the civil penalty, all court costs, investigative costs, and attorney's fees associated with the assessment of the penalty. A civil penalty assessed under this subsection shall be deposited to the compensation to victims of crime fund established under Subchapter B, Chapter 56.

(e) This article does not create a private cause of action against a commercial social networking site, including a cause of action that is based on the site:

(1) identifying, removing, disabling, blocking, or otherwise affecting the user of a commercial social networking site, based on a good faith belief that the person is required to register as a sex offender under this chapter or federal law; or

(2) failing to identify, remove, disable, block, or otherwise affect the user of a commercial social networking site who is required to register as a sex offender under this chapter or federal law.

(f) In this article, "commercial social networking site":

(1) means an Internet website that:

(A) allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website;

(B) offers a mechanism for communication with other users of the Internet website; and

(C) has the primary purpose of facilitating online social interactions; and

(2) does not include an Internet service provider, unless the Internet service provider separately operates and directly derives revenue from an Internet website described by Subdivision (1).

(Enacted by Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 4, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.007. Risk Assessment Review Committee; Sex Offender Screening Tool.

(a) The Texas Department of Criminal Justice shall establish a risk assessment review committee composed of at least seven members, each of whom serves on the review committee in addition to the member's other employment-related duties. The review committee, to the extent feasible, must include at least:

(1) one member having experience in law enforcement;

(2) one member having experience working with juvenile sex offenders;

(3) one member having experience as a sex offender treatment provider;

(4) one member having experience working with victims of sex offenses;

(5) the executive director of the Council on Sex Offender Treatment; and

(6) one sex offender treatment provider registered under Chapter 110, Occupations Code, and selected by the executive director of the Council on Sex Offender Treatment to serve on the review committee.

(b) The risk assessment review committee functions in an oversight capacity. The committee shall:

(1) develop or select, from among existing tools or from any tool recommended by the Council on Sex Offender Treatment, a sex offender screening tool to be used in determining the level of risk of a person subject to registration under this chapter;

(2) ensure that staff is trained on the use of the screening tool;

(3) monitor the use of the screening tool in the state; and

(4) analyze other screening tools as they become available and revise or replace the existing screening tool if warranted.

(c) The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of various factors. In developing or selecting the sex offender screening tool, the risk assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:

(1) level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;

(2) level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and might continue to engage in criminal sexual conduct; and

(3) level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.

(d) The risk assessment review committee, the Texas Department of Criminal Justice, the Texas Youth Commission, or a court may override a risk level only if the entity:

(1) believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and

(2) documents the reason for the override in the offender's case file.

(e) Notwithstanding Chapter 58, Family Code, records and files, including records that have been sealed under Section 58.003 of that code, relating to a person for whom a court, the Texas Department of Criminal Justice, or the Texas Youth Commission is required under this article to determine a level of risk shall be released to the court, department, or commission, as appropriate, for the purpose of determining the person's risk level.

(f) Chapter 551, Government Code, does not apply to a meeting of the risk assessment review committee.

(g) The numeric risk level assigned to a person using the sex offender screening tool described by this article is not confidential and is subject to disclosure under Chapter 552, Government Code.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.008. General Immunity.

The following persons are immune from liability for good faith conduct under this chapter:

(1) an employee or officer of the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, the Department of Public Safety, the Board

of Pardons and Paroles, or a local law enforcement authority;

(2) an employee or officer of a community supervision and corrections department or a juvenile probation department;

(3) a member of the judiciary; and

(4) a member of the risk assessment review committee established under Article 62.007.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.009. Immunity for Release of Public Information.

(a) The department, a penal institution, a local law enforcement authority, or an authority for campus security may release to the public information regarding a person required to register under this chapter only if the information is public information under this chapter.

(b) An individual, agency, entity, or authority is not liable under Chapter 101, Civil Practice and Remedies Code, or any other law for damages arising from conduct authorized by Subsection (a).

(c) For purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.

(d) A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education may release to the public information regarding a person required to register under this chapter only if the information is public information under this chapter and is released to the administrator under Article 62.005, 62.053, 62.054, 62.055, or 62.153. A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education is not liable under any law for damages arising from conduct authorized by this subsection.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.010. Rulemaking Authority.

The Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the department may adopt any rule necessary to implement this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

SUBCHAPTER B REGISTRATION AND VERIFICATION REQUIREMENTS; RELATED NOTICE

Art. 62.051. Registration: General.

(a) A person who has a reportable conviction or adjudication or who is required to register as a condition of parole, release to mandatory supervision, or community supervision shall register or, if the person is a person for whom registration is completed under this chapter, verify registration as provided by Subsection (f), with the local law enforcement authority in any municipality where the person resides or intends to reside for more than seven days. If the person does not reside or intend to reside in a municipality, the person shall register or verify registration in any county where the person resides or intends to reside for more than seven days. The person shall satisfy the requirements of this subsection not later than the later of:

(1) the seventh day after the person's arrival in the municipality or county; or

(2) the first date the local law enforcement authority of the municipality or county by policy allows the person to register or verify registration, as applicable.

(b) The department shall provide the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and each local law enforcement authority, authority for campus security, county jail, and court with a form for registering persons required by this chapter to register.

(c) The registration form shall require:

(1) the person's full name, date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, and shoe size;

(1-a) the address at which the person resides or intends to reside or, if the person does not reside or intend to reside at a physical address, a detailed description of each geographical location at which the person resides or intends to reside;

(1-b) each alias used by the person and any home, work, or cellular telephone number of the person;

(2) a recent color photograph or, if possible, an electronic digital image of the person and a complete set of the person's fingerprints;

(3) the type of offense the person was convicted of, the age of the victim, the date of conviction, and the punishment received;

(4) an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision;

(5) an indication of each license, as defined by Article 62.005(g), that is held or sought by the person;

(6) an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution;

(7) the identification of any online identifier established or used by the person; and

(8) any other information required by the department.

(d) The registration form must contain a statement and description of any registration duties the person has or may have under this chapter.

(e) Not later than the third day after a person's registering, the local law enforcement authority with whom the person registered shall send a copy of the registration form to the department and, if the person resides on the campus of a public or private institution of higher education, to any authority for campus security for that institution.

(f) Not later than the seventh day after the date on which the person is released, a person for whom registration is completed under this chapter shall report to the applicable local law enforcement authority to verify the information in the registration form received by the authority under this chapter. The authority shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(g) A person who is required to register or verify registration under this chapter shall ensure that the person's registration form is complete and accurate with respect to each item of information required by the form in accordance with Subsection (c).

(h) If a person subject to registration under this chapter does not move to an intended residence by the end of the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, the person shall:

(1) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person by not later than the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, as applicable, and provide the officer with the address of the person's temporary residence; and

(2) continue to report to the person's supervising officer not less than weekly during any period of time in which the person has not moved to an intended residence and provide the officer with the address of the person's temporary residence.

(i) If the other state has a registration requirement for sex offenders, a person who has a reportable conviction or adjudication, who resides in this state, and who is employed, carries on a vocation, or is a student in another state shall, not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information. If the person is employed, carries on a vocation, or is a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, the person shall also register with that authority not later than the 10th day after the date on which the person begins to work or attend school.

(j) If a person subject to registration under this chapter is released from a penal institution without being released to parole or placed on any other form of supervision and the person does not move to the address indicated on the registration form as the person's intended residence or does not indicate an address on the registration form, the person shall, not later than the seventh day after the date on which the person is released:

(1) report in person to the local law enforcement authority for the municipality or county, as applicable, in which the person is residing and provide that authority with the address at which the person is residing or, if the person's residence does not have a physical address, a detailed description of the geographical location of the person's residence; and

(2) until the person indicates the person's current address as the person's intended residence on the registration form or otherwise complies with the requirements of Article 62.055, as appropriate, continue to report, in the manner required by Subdivision (1), to that authority not less than once in each succeeding 30-day period and provide that authority with the address at which the person is residing or, if applicable, a detailed description of the geographical location of the person's residence.

(k) A person required to register under this chapter may not refuse or otherwise fail to provide any

information required for the accurate completion of the registration form.

(Redesignated from V.A.C.S. Art. 6252-13.c1 § 2 and amended by Acts 1997, 75th Leg., ch. 668 (S.B. 875), § 1, effective September 1, 1997; Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 1, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1193 (S.B. 399), § 5, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 10, effective September 1, 1999; Acts 2001, 77th Leg., ch. 932 (S.B. 654), § 1, effective September 1, 2001; Acts 2003, 78th Leg., ch. 347 (S.B. 871), § 4 , effective September 1, 2003; Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 5, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.02); am. Acts 2009, 81st Leg., ch. 661 (H.B. 2153), § 2, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 6.005, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 661 (H.B. 2153), § 7 provides: "The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to any person who, on or after the effective date of this Act [September 1, 2009], is required to register under that chapter, regardless of whether the offense or conduct for which the person is required to register occurs before, on, or after the effective date of this Act."

Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.052. Registration: Extrajurisdictional Registrants.

(a) An extrajurisdictional registrant is required to comply with the annual verification requirements of Article 62.058 in the same manner as a person who is required to verify registration on the basis of a reportable conviction or adjudication.

(b) The duty to register for an extrajurisdictional registrant expires on the date the person's duty to register would expire under the laws of the other state or foreign country had the person remained in that state or foreign country, under federal law, or under the Uniform Code of Military Justice, as applicable.

(c) The department may negotiate and enter into a reciprocal registration agreement with any other state to prevent residents of this state and residents of the other state from frustrating the public purpose of the registration of sex offenders by moving from one state to the other.

(Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 2, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 11, effective September 1, 1999; Acts 2001, 77th Leg., ch. 211 (S.B. 1380), § 3, effective September 1, 2001; Acts 2003, 78th Leg., ch. 1005 (H.B. 236), § 10, effective September 1, 2003; Am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.021).)

Art. 62.053. Prerelease Notification.

(a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Juvenile Justice Department shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;

(B) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must, if the person has not moved to an intended residence, report to the applicable entity or entities as required by Article 62.051(h) or (j) or 62.055(e);

(C) not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

(D) not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive reg-

istration information, if the other state has a registration requirement for sex offenders;

(E) not later than the 30th day after the date on which the person is released, the person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person;

(F) the person must notify appropriate entities of any change in status as described by Article 62.057; and

(G) certain types of employment are prohibited under Article 62.063 for a person with a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age occurring on or after September 1, 2013;

(2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) or, if the person refuses to sign the statement, certify that the person was so informed;

(3) obtain the address or, if applicable, a detailed description of each geographical location where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and

(4) complete the registration form for the person.

(b) On the seventh day before the date on which a person who will be subject to registration under this chapter is due to be released from a penal institution, or on receipt of notice by a penal institution that a person who will be subject to registration under this chapter is due to be released in less than seven days, an official of the penal institution shall send the person's completed registration form and numeric risk level to the department and to:

(1) the applicable local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside in this state; or

(2) the law enforcement agency that is identified by the department as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.

(c) If a person who is subject to registration under this chapter receives an order deferring adjudication, placing the person on community supervision or juvenile probation, or imposing only a fine, the court pronouncing the order or sentence shall make a determination of the person's numeric risk level using the sex offender screening tool developed or selected under Article 62.007, assign to the person a numeric risk level of one, two, or three, and ensure that the prerelease notification and registration requirements specified in this article are conducted on the day of entering the order or sentencing. If a community supervision and corrections department representative is available in court at the time a court pronounces a sentence of deferred adjudication or community supervision, the representative shall immediately obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article. In any other case in which the court pronounces a sentence under this subsection, the court shall designate another appropriate individual to obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article.

(d) If a person who has a reportable conviction described by Article 62.001(5)(H) or (I) is placed under the supervision of the parole division of the Texas Department of Criminal Justice or a community supervision and corrections department under Section 510.017, Government Code, the division or community supervision and corrections department shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the division or community supervision and corrections department. If a person who has a reportable adjudication of delinquent conduct described by Article 62.001(5)(H) or (I) is, as permitted by Section 60.002, Family Code, placed under the supervision of the Texas Youth Commission, a public or private vendor operating under contract with the Texas Youth Commission, a local juvenile probation department, or a juvenile secure pre-adjudication or post-adjudication facility, the commission, vendor, probation department, or facility shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the commission, vendor, probation department, or facility.

(e) Not later than the eighth day after receiving a registration form under Subsection (b), (c), or (d), the local law enforcement authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. The local law enforcement authority shall immediately provide notice to the superintendent of the public school district and

to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate, in accordance with Article 62.054. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

(f) The local law enforcement authority shall include in the notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district any information the authority determines is necessary to protect the public, except:

(1) the person's social security number or driver's license number, or any home, work, or cellular telephone number of the person; and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

(g) Before a person who will be subject to registration under this chapter is due to be released from a penal institution in this state, an official of the penal institution shall inform the person that:

(1) if the person intends to reside in another state and to work or attend school in this state, the person must, not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to work or attend school;

(2) if the person intends to reside in this state and to work or attend school in another state and if the other state has a registration requirement for sex offenders, the person must:

(A) not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information; and

(B) if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, register with that authority not later than the 10th day after the date on which the person begins to work or attend school; and

(3) regardless of the state in which the person intends to reside, if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in this state, the person must:

(A) not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable authority by policy allows the person to register, register with:

(i) the authority for campus security for that institution; or

(ii) except as provided by Article 62.153(e), if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(a) the municipality in which the institution is located; or

(b) the county in which the institution is located, if the institution is not located in a municipality; and

(B) not later than the seventh day after the date the person stops working or attending school, notify the appropriate authority for campus security or local law enforcement authority of the termination of the person's status as a worker or student.

(Redesignated from V.A.C.S. Art. 6252-13.c1 § 3 and amended by Acts 1997, 75th Leg., ch. 668 (S.B. 875), § 1, effective September 1, 1997; Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 3, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1193 (S.B. 399), §§ 6, 7, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1401 (H.B. 1939), § 2, effective September 1, 2000; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 12, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1557 (S.B. 1650), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 177 (S.B. 1206), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 211 (S.B. 1380), § 4, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 347 (S.B. 871), § 5, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.03); am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.048, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 661 (H.B. 2153), § 3, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 6, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 663 (H.B. 1302), § 4, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 661 (H.B. 2153), § 7 provides: "The changes in law made by this Act in amending

Chapter 62, Code of Criminal Procedure, apply to any person who, on or after the effective date of this Act [September 1, 2009], is required to register under that chapter, regardless of whether the offense or conduct for which the person is required to register occurs before, on, or after the effective date of this Act."

Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.054. Circumstances Requiring Notice to Superintendent or School Administrator.

(a) A local law enforcement authority shall provide notice to the superintendent and each administrator under Article 62.053(e) or 62.055(f) only if:

(1) the victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;

(2) the person subject to registration is a student enrolled in a public or private secondary school; or

(3) the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 43.25 or 43.26, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under either of those sections.

(b) A local law enforcement authority may not provide notice to the superintendent or any administrator under Article 62.053(e) or 62.055(f) if the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under that section.

(Acts 2003, 78th Leg., ch. 347 (S.B. 871), § 6, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.032).)

Art. 62.055. Change of Address; Lack of Address.

(a) If a person required to register under this chapter intends to change address, regardless of whether the person intends to move to another state, the person shall, not later than the seventh day before the intended change, report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person and provide the authority and the officer with the person's anticipated move date and new address. If a person required to register changes address, the person shall, not later than the later of the seventh day after changing the address or the first date the applicable local law enforcement authority by policy allows the person to report, report in person to the local law enforcement authority in the municipality or county in which the person's new residence is located and provide the authority with proof of identity and proof of residence.

(b) Not later than the third day after receipt of notice under Subsection (a), the person's juvenile probation officer, community supervision and corrections department officer, or parole officer shall forward the information provided under Subsection (a) to the local law enforcement authority designated as the person's primary registration authority by the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.

(c) If the person moves to another state that has a registration requirement for sex offenders, the person shall, not later than the 10th day after the date on which the person arrives in the other state, register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information.

(d) Not later than the third day after receipt of information under Subsection (a) or (b), whichever is earlier, the local law enforcement authority shall forward this information to the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.

(e) If a person who reports to a local law enforcement authority under Subsection (a) does not move on or before the anticipated move date or does not move to the new address provided to the authority, the person shall:

(1) not later than the seventh day after the anticipated move date, and not less than weekly after that seventh day, report to the local law enforcement authority designated as the person's primary registration authority by the department and provide an explanation to the authority regarding any changes in the anticipated move date and intended residence; and

(2) report to the juvenile probation officer, community supervision and corrections department

officer, or parole officer supervising the person not less than weekly during any period in which the person has not moved to an intended residence.

(f) If the person moves to another municipality or county in this state, the department shall inform the applicable local law enforcement authority in the new area of the person's residence not later than the third day after the date on which the department receives information under Subsection (a). Not later than the eighth day after the date on which the local law enforcement authority is informed under Subsection (a) or under this subsection, the authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. The local law enforcement authority shall immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate, in accordance with Article 62.054. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

(g) The local law enforcement authority shall include in the notice to the superintendent of the public school district and the administrator of any private primary or secondary school located in the public school district any information the authority determines is necessary to protect the public, except:

(1) the person's social security number or driver's license number, or any home, work, or cellular telephone number of the person; and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

(h) If the person moves to another state, the department shall, immediately on receiving information under Subsection (d):

(1) inform the agency that is designated by the other state to receive registration information, if that state has a registration requirement for sex offenders; and

(2) send to the Federal Bureau of Investigation a copy of the person's registration form, including the record of conviction and a complete set of fingerprints.

(i) If a person required to register under this chapter resides for more than seven days at a location or locations to which a physical address has not been assigned by a governmental entity, the person, not less than once in each 30-day period, shall confirm the person's location or locations by:

(1) reporting to the local law enforcement authority in the municipality where the person resides or, if the person does not reside in a municipality, the local law enforcement authority in the county in which the person resides; and

(2) providing a detailed description of the applicable location or locations.

(Redesignated from V.A.C.S. Art. 6252-13.c1 § 4 and amended by Acts 1997, 75th Leg., ch. 668 (S.B. 875), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 4, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 13, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1557 (S.B. 1650), § 3, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 177 (S.B. 1206), § 3, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 211 (S.B. 1380), § 5, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 347 (S.B. 871), § 7, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.04); am. Acts 2009, 81st Leg., ch. 661 (H.B. 2153), §§ 4, 5, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 7, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 661 (H.B. 2153), § 7 provides: "The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to any person who, on or after the effective date of this Act [September 1, 2009], is required to register under that chapter, regardless of whether the offense or conduct for which the person is required to register occurs before, on, or after the effective date of this Act."

Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.0551. Change in Online Identifiers.

(a) If a person required to register under this chapter changes any online identifier included on the person's registration form or establishes any new online identifier not already included on the person's registration form, the person, not later than the later of the seventh day after the change or establishment or the first date the applicable authority by policy allows the person to report, shall report the change or establishment to the person's primary registration authority in the manner prescribed by the authority.

(b) A primary registration authority that receives information under this article shall forward infor-

mation in the same manner as information received by the authority under Article 62.055.
(Enacted by Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 8, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.056. Additional Public Notice for Certain Offenders.

(a) On receipt of notice under this chapter that a person subject to registration is due to be released from a penal institution, has been placed on community supervision or juvenile probation, or intends to move to a new residence in this state, the department shall verify the person's numeric risk level assigned under this chapter. If the person is assigned a numeric risk level of three, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each address, other than a post office box, within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside. In providing written notice under this subsection, the department shall use employees of the department whose duties in providing the notice are in addition to the employees' regular duties.

(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under Subsection (a), other than a person subject to registration on the basis of an adjudication of delinquent conduct, to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) On receipt of notice under this chapter that a person subject to registration under this chapter is required to register or verify registration with a local law enforcement authority and has been assigned a numeric risk level of three, the local law enforcement authority may provide notice to the public in any manner determined appropriate by the local law enforcement authority, including publishing notice in a newspaper or other periodical or circular in circulation in the area where the person intends to reside, holding a neighborhood meeting, posting notices in the area where the person intends to reside, distributing printed notices to area residents, or establishing a specialized local website. The local law enforcement authority may include in the notice only information that is public information under this chapter.

(e) An owner, builder, seller, or lessor of a single-family residential real property or any improvement to residential real property or that person's broker, salesperson, or other agent or representative in a residential real estate transaction does not have a duty to make a disclosure to a prospective buyer or lessee about registrants under this chapter. To the extent of any conflict between this subsection and another law imposing a duty to disclose information about registered sex offenders, this subsection controls.
(Enacted by Acts 1999, 76th Leg., ch. 1557 (S.B. 1650) § 4, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 177 (S.B. 1206), § 4, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 211 (S.B. 1380), § 6, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.045).)

Art. 62.057. Status Report by Supervising Officer or Local Law Enforcement Authority.

(a) If the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising a person subject to registration under this chapter receives information to the effect that the person's status has changed in any manner that affects proper supervision of the person, including a change in the person's name, online identifiers, physical health, job or educational status, including higher educational status, incarceration, or terms of release, the supervising officer shall promptly notify the appropriate local law enforcement authority or authorities of that change. If the person required to register intends to change address, the supervising officer shall notify the local law enforcement authorities designated by Article 62.055(b). Not later than the seventh day after the date the supervising officer receives the relevant information, the supervising officer shall notify the local law enforcement authority of any change in the person's job or educational status in which the person:

(1) becomes employed, begins to carry on a vocation, or becomes a student at a particular

public or private institution of higher education; or

(2) terminates the person's status in that capacity.

(b) Not later than the later of the seventh day after the date of the change or the first date the applicable authority by policy allows the person to report, a person subject to registration under this chapter shall report to the local law enforcement authority designated as the person's primary registration authority by the department any change in the person's name, online identifiers, physical health, or job or educational status, including higher educational status.

(c) For purposes of Subsection (b):

(1) a person's job status changes if the person leaves employment for any reason, remains employed by an employer but changes the location at which the person works, or begins employment with a new employer;

(2) a person's health status changes if the person is hospitalized as a result of an illness;

(3) a change in a person's educational status includes the person's transfer from one educational facility to another; and

(4) regarding a change of name, notice of the proposed name provided to a local law enforcement authority as described by Sections 45.004 and 45.103, Family Code, is sufficient, except that the person shall promptly notify the authority of any denial of the person's petition for a change of name.

(d) Not later than the seventh day after the date the local law enforcement authority receives the relevant information, the local law enforcement authority shall notify the department of any change in the person's job or educational status in which the person:

(1) becomes employed, begins to carry on a vocation, or becomes a student at a particular public or private institution of higher education; or

(2) terminates the person's status in that capacity.

(Enacted by Acts 1997, 75th Leg., ch. 668 (S.B. 875), § 1, effective September 1, 1997; Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 6, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 14, effective September 1, 1999; Acts 2001, 77th Leg., ch. 19 (H.B. 121), § 1, effective September 1, 2001; Acts 2003, 78th Leg., ch. 347 (S.B. 871), § 8, effective September 1, 2003; Acts 2003, 78th Leg., ch. 1300 (S.B. 146), § 4, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.05); am. Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 9, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 755 (S.B. 689), § 13 provides: "The change in law made by this Act in amending Chapter 62, Code of Criminal Procedure, applies to any person who, on or after January 1, 2010, is subject to registration under that chapter regardless of whether the offense or conduct for which the person is subject to registration occurred before, on, or after that date."

Art. 62.058. Law Enforcement Verification of Registration Information.

(a) A person subject to registration under this chapter who has for a sexually violent offense been convicted two or more times, received an order of deferred adjudication two or more times, or been convicted and received an order of deferred adjudication shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 90-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. A person subject to registration under this chapter who is not subject to the 90-day reporting requirement described by this subsection shall report to the local law enforcement authority designated as the person's primary registration authority by the department once each year not earlier than the 30th day before and not later than the 30th day after the anniversary of the person's date of birth to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 90-day period following a date if the person registers at any time on or after the 83rd day following that date but before the 98th day after that date.

(b) A local law enforcement authority designated as a person's primary registration authority by the department may direct the person to report to the authority to verify the information in the registration form maintained by the authority for that person. The authority may direct the person to report under this subsection once in each 90-day period following the date the person first registered under this chapter, if the person is required to report not less than once in each 90-day period under Subsection (a) or once in each year not earlier than the 30th day before and not later than the 30th day after the anniversary of the person's date of birth, if the person is required to report once each year under Subsection (a). A local law enforcement authority may not direct a person to report to the authority under this subsection if the person is required to

report under Subsection (a) and is in compliance with the reporting requirements of that subsection.

(c) A local law enforcement authority with whom a person reports under this article shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(d) A local law enforcement authority designated as a person's primary registration authority by the department may at any time mail a nonforwardable verification form to the last reported address of the person. Not later than the 21st day after receipt of a verification form under this subsection, the person shall:

(1) indicate on the form whether the person still resides at the last reported address and, if not, provide on the form the person's new address;

(2) complete any other information required by the form;

(3) sign the form; and

(4) return the form to the authority.

(e) For purposes of this article, a person receives multiple convictions or orders of deferred adjudication regardless of whether:

(1) the judgments or orders are entered on different dates; or

(2) the offenses for which the person was convicted or placed on deferred adjudication arose

(f) A local law enforcement authority that provides to a person subject to the prohibitions described by Article 62.063 a registration form for verification as required by this chapter shall include with the form a statement summarizing the types of employment that are prohibited for that person.

(Enacted by Acts 1997, 75th Leg., ch. 668 (S.B. 875), § 1, effective September 1, 1997; Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 7, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 15, effective September 1, 1999; Acts 2001, 77th Leg., ch. 211 (S.B. 1380), § 9, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.06); am. Acts 2013, 83rd Leg., ch. 663 (H.B. 1302), § 5, effective September 1, 2013.)

Art. 62.059. Registration of Persons Regularly Visiting Location.

(a) A person subject to this chapter who on at least three occasions during any month spends more than 48 consecutive hours in a municipality or county in this state, other than the municipality or county in which the person is registered under this chapter, before the last day of that month shall report that fact to:

(1) the local law enforcement authority of the municipality in which the person is a visitor; or

(2) if the person is a visitor in a location that is not a municipality, the local law enforcement authority of the county in which the person is a visitor.

(b) A person described by Subsection (a) shall provide the local law enforcement authority with:

(1) all information the person is required to provide under Article 62.051(c);

(2) the address of any location in the municipality or county, as appropriate, at which the person was lodged during the month; and

(3) a statement as to whether the person intends to return to the municipality or county during the succeeding month.

(c) This article does not impose on a local law enforcement authority requirements of public notification or notification to schools relating to a person about whom the authority is not otherwise required by this chapter to make notifications.

(Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 8, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 16, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.062).)

Art. 62.060. Requirements Relating to Driver's License or Personal Identification Certificate.

(a) A person subject to registration under this chapter shall apply to the department in person for the issuance of, as applicable, an original or renewal driver's license under Section 521.272, Transportation Code, an original or renewal personal identification certificate under Section 521.103, Transportation Code, or an original or renewal commercial driver's license or commercial driver learner's permit under Section 522.033, Transportation Code, not later than the 30th day after the date:

(1) the person is released from a penal institution or is released by a court on community supervision or juvenile probation; or

(2) the department sends written notice to the person of the requirements of this article.

(b) The person shall annually renew in person each driver's license or personal identification certificate issued by the department to the person, including each renewal, duplicate, or corrected license or certificate, until the person's duty to register under this chapter expires.

(Acts 1999, 76th Leg., ch. 1401 (H.B. 1939), § 3, effective September 1, 2000; Acts 2001, 77th Leg., ch. 546 (H.B. 2663), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.065).)

Art. 62.061. DNA Specimen.

A person required to register under this chapter shall comply with a request for a DNA specimen made by a law enforcement agency under Section 411.1473, Government Code.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.062. Limitation on Newspaper Publication.

(a) Except as provided by Subsection (b), a local law enforcement authority may not publish notice in a newspaper or other periodical or circular concerning a person's registration under this chapter if the only basis on which the person is subject to registration is one or more adjudications of delinquent conduct.

(b) This article does not apply to a publication of notice under Article 62.056.

(Enacted Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.063. Prohibited Employment.

(a) In this article:

(1) "Amusement ride" has the meaning assigned by Section 2151.002, Occupations Code.

(2) "Bus" has the meaning assigned by Section 541.201, Transportation Code.

(b) A person subject to registration under this chapter because of a reportable conviction or adjudication for which an affirmative finding is entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, as appropriate, may not, for compensation:

(1) operate or offer to operate a bus;

(2) provide or offer to provide a passenger taxicab or limousine transportation service;

(3) provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised; or

(4) operate or offer to operate any amusement ride.

(Enacted by Acts 2013, 83rd Leg., ch. 663 (H.B. 1302), § 6, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 663 (H.B. 1302), § 10(a)(1) provides: "The change in law made by this Act in adding Article 62.063, Code of Criminal Procedure, applies only to a person who is required to register under Chapter 62, Code of Criminal Procedure, on the basis of a conviction or adjudication for an offense described by that article and for which an affirmative finding under Article 42.015(b) or Section 5(e)(2), Article 42.12, Code of Criminal Procedure, as added by this Act, is made on or after the effective date of this Act [September 1, 2013]."

SUBCHAPTER C
EXPIRATION OF DUTY TO REGISTER; GENERAL PENALTIES FOR NONCOMPLIANCE

Art. 62.101. Expiration of Duty to Register.

(a) Except as provided by Subsection (b) and Subchapter I, the duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:

(1) a sexually violent offense;

(2) an offense under Section 20A.02(a)(3), (4), (7), or (8), 25.02, 43.05(a)(2), or 43.26, Penal Code;

(3) an offense under Section 21.11(a)(2), Penal Code, if before or after the person is convicted or adjudicated for the offense under Section 21.11(a)(2), Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter;

(4) an offense under Section 20.02, 20.03, or 20.04, Penal Code, if:

(A) the judgment in the case contains an affirmative finding under Article 42.015 or, for a deferred adjudication, the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age; and

(B) before or after the person is convicted or adjudicated for the offense under Section 20.02, 20.03, or 20.04, Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter; or

(5) an offense under Section 43.23, Penal Code, that is punishable under Subsection (h) of that section.

(b) Except as provided by Subchapter I, the duty to register for a person otherwise subject to Subsection (a) ends on the 10th anniversary of the date on which the person is released from a penal institution or discharges community supervision or the court dismisses the criminal proceedings against the person and discharges the person, whichever date is later, if the person's duty to register is based on a conviction or an order of deferred adjudication in a cause that was transferred to a district court or

criminal district court under Section 54.02, Family Code.

(c) Except as provided by Subchapter I, the duty to register for a person with a reportable conviction or adjudication for an offense other than an offense described by Subsection (a) ends:

(1) if the person's duty to register is based on an adjudication of delinquent conduct, on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later; or

(2) if the person's duty to register is based on a conviction or on an order of deferred adjudication, on the 10th anniversary of the date on which the court dismisses the criminal proceedings against the person and discharges the person, the person is released from a penal institution, or the person discharges community supervision, whichever date is later.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 2.11, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 7.01 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Art. 62.102. Failure to Comply with Registration Requirements.

(a) A person commits an offense if the person is required to register and fails to comply with any requirement of this chapter.

(b) An offense under this article is:

(1) a state jail felony if the actor is a person whose duty to register expires under Article 62.101(b) or (c);

(2) a felony of the third degree if the actor is a person whose duty to register expires under Article 62.101(a) and who is required to verify registration once each year under Article 62.058; and

(3) a felony of the second degree if the actor is a person whose duty to register expires under Article 62.101(a) and who is required to verify registration once each 90-day period under Article 62.058.

(c) If it is shown at the trial of a person for an offense or an attempt to commit an offense under this article that the person has previously been convicted of an offense or an attempt to commit an offense under this article, the punishment for the offense or the attempt to commit the offense is increased to the punishment for the next highest degree of felony.

(d) If it is shown at the trial of a person for an offense under this article or an attempt to commit an offense under this article that the person fraudulently used identifying information in violation of Section 32.51, Penal Code, during the commission or attempted commission of the offense, the punishment for the offense or the attempt to commit the offense is increased to the punishment for the next highest degree of felony.

(Redesignated from V.A.C.S. Art. 6252-13.c1 § 7 and amended by Acts 1997, 75th Leg., ch. 668 (S.B. 875), § 1, effective September 1, 1997; Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 9, effective September 1, 1999; Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 18, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.10); am. Acts 2013, 83rd Leg., ch. 362 (H.B. 2637), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 362 (H.B. 2637), § 3 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

SUBCHAPTER D
PROVISIONS APPLICABLE TO CERTAIN WORKERS AND STUDENTS

Art. 62.151. Definitions.

For purposes of this subchapter, a person:

(1) is employed or carries on a vocation if the person works or volunteers on a full-time or part-time basis for a consecutive period exceeding 14 days or for an aggregate period exceeding 30 days in a calendar year;

(2) works regardless of whether the person works for compensation or for governmental or educational benefit; and

(3) is a student if the person enrolls on a full-time or part-time basis in any educational facility, including:

(A) a public or private primary or secondary school, including a high school or alternative learning center; or

(B) a public or private institution of higher education.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.152. Registration of Certain Workers or Students.

(a) A person is subject to this subchapter and, except as otherwise provided by this article, to the other subchapters of this chapter if the person:

(1) has a reportable conviction or adjudication;

(2) resides in another state; and

(3) is employed, carries on a vocation, or is a student in this state.

(b) A person described by Subsection (a) is subject to the registration and verification requirements of Articles 62.051 and 62.058 and to the change of address requirements of Article 62.055, except that the registration and verification and the reporting of a change of address are based on the municipality or county in which the person works or attends school. The person is subject to the school notification requirements of Articles 62.053—62.055, except that notice provided to the superintendent and any administrator is based on the public school district in which the person works or attends school.

(c) A person described by Subsection (a) is not subject to Article 62.101.

(d) The duty to register for a person described by Subsection (a) ends when the person no longer works or studies in this state, provides notice of that fact to the local law enforcement authority in the municipality or county in which the person works or attends school, and receives notice of verification of that fact from the authority. The authority must verify that the person no longer works or studies in this state and must provide to the person notice of that verification within a reasonable time.

(e) Notwithstanding Subsection (a), this article does not apply to a person who has a reportable conviction or adjudication, who resides in another state, and who is employed, carries on a vocation, or is a student in this state if the person establishes another residence in this state to work or attend school in this state. However, that person remains subject to the other articles of this chapter based on that person's residence in this state.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.153. Registration of Workers or Students at Institutions of Higher Education.

(a) Not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable authority by policy allows the person to register, a person required to register under Article 62.152 or any other provision of this chapter who is employed, carries on a vocation, or is a student at a public or private institution of higher education in this state shall report that fact to:

(1) the authority for campus security for that institution; or

(2) if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(A) the municipality in which the institution is located; or

(B) the county in which the institution is located, if the institution is not located in a municipality.

(b) A person described by Subsection (a) shall provide the authority for campus security or the local law enforcement authority with all information the person is required to provide under Article 62.051(c).

(c) A person described by Subsection (a) shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker or student at the institution.

(d) The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the department under Article 62.005.

(e) Subsection (a)(2) does not require a person to register with a local law enforcement authority if the person is otherwise required by this chapter to register with that authority.

(f) This article does not impose the requirements of public notification or notification to public or private primary or secondary schools on:

(1) an authority for campus security; or

(2) a local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by this chapter to make notifications.

(g) Notwithstanding Article 62.059, the requirements of this article supersede those of Article 62.059 for a person required to register under both this article and Article 62.059.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

SUBCHAPTER E PROVISIONS APPLICABLE TO PERSONS SUBJECT TO CIVIL COMMITMENT

Art. 62.201. Additional Public Notice for Individuals Subject to Civil Commitment.

(a) On receipt of notice under this chapter that a

person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, the department shall, not later than the seventh day after the date on which the person is released or the seventh day after the date on which the person moves, provide written notice mailed or delivered to at least each address, other than a post office box, within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.

(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under this article to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) The department's duty to provide notice under this article in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.202. Verification of Individuals Subject to Commitment.

(a) Notwithstanding Article 62.058, if an individual subject to registration under this chapter is civilly committed as a sexually violent predator, the person shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 30-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 30-day period following a date if the person registers at any time on or after the 27th day following that date but before the 33rd day after that date.

(b) On the date a court releases a person described by Subsection (a) from all requirements of the civil commitment process:

(1) the person's duty to verify registration as a sex offender is no longer imposed by this article; and

(2) the person is required to verify registration as provided by Article 62.058.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.203. Failure to Comply: Individuals Subject to Commitment.

(a) A person commits an offense if the person, after commitment as a sexually violent predator but before the person is released from all requirements of the civil commitment process, fails to comply with any requirement of this chapter.

(b) An offense under this article is a felony of the second degree.

(Acts 1999, 76th Leg., ch. 444 (S.B. 1224), § 5(c), effective January 1, 2000; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.101).)

SUBCHAPTER F
REMOVAL OF REGISTRATION INFORMATION

Art. 62.251. Removing Registration Information When Duty to Register Expires.

(a) When a person is no longer required to register as a sex offender under this chapter, the department shall remove all information about the person from the sex offender registry.

(b) The duty to remove information under Subsection (a) arises if:

(1) the department has received notice from a local law enforcement authority under Subsection (c) or (d) that the person is no longer required to register or will no longer be required to renew registration and the department verifies the correctness of that information;

(2) the court having jurisdiction over the case for which registration is required requests removal and the department determines that the duty to register has expired; or

(3) the person or the person's representative requests removal and the department determines that the duty to register has expired.

(c) When a person required to register under this chapter appears before a local law enforcement authority to renew or modify registration information, the authority shall determine whether the duty to register has expired. If the authority determines that the duty to register has expired, the authority shall remove all information about the person from the sex offender registry and notify the department that the person's duty to register has expired.

(d) When a person required to register under this chapter appears before a local law enforcement

authority to renew registration information, the authority shall determine whether the renewal is the final annual renewal of registration required by law. If the authority determines that the person's duty to register will expire before the next annual renewal is scheduled, the authority shall automatically remove all information about the person from the sex offender registry on expiration of the duty to register and notify the department that the information about the person has been removed from the registry.

(e) When the department has removed information under Subsection (a), the department shall notify all local law enforcement authorities that have provided registration information to the department about the person of the removal. A local law enforcement authority that receives notice from the department under this subsection shall remove all registration information about the person from its registry.

(f) When the department has removed information under Subsection (a), the department shall notify all public and private agencies or organizations to which it has provided registration information about the person of the removal. On receiving notice, the public or private agency or organization shall remove all registration information about the person from any registry the agency or organization maintains that is accessible to the public with or without charge.

(Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 37, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005 (renumbered from art. 62.14).)

SUBCHAPTER G
EXEMPTION FROM REGISTRATION FOR CERTAIN YOUNG ADULT SEX OFFENDERS

Art. 62.301. Exemption from Registration for Certain Young Adult Sex Offenders.

(a) If eligible under Subsection (b) or (c), a person required to register under this chapter may petition the court having jurisdiction over the case for an order exempting the person from registration under this chapter at any time on or after the date of the person's sentencing or the date the person is placed on deferred adjudication community supervision, as applicable.

(b) A person is eligible to petition the court as described by Subsection (a) if:

(1) the person is required to register only as a result of a single reportable conviction or adjudication, other than an adjudication of delinquent conduct; and

(2) the court has entered in the appropriate judgment or has filed with the appropriate papers a statement of an affirmative finding described by Article 42.017 or Section 5(g), Article 42.12.

(c) A defendant who before September 1, 2011, is convicted of or placed on deferred adjudication community supervision for an offense under Section 21.11 or 22.011, Penal Code, is eligible to petition the court as described by Subsection (a). The court may consider the petition only if the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding under Article 42.017 or Section 5(g), Article 42.12, as appropriate, had the conviction or placement on deferred adjudication community supervision occurred after September 1, 2011.

(c-1) At a hearing on the petition described by Subsection (a), the court may consider:

(1) testimony from the victim or intended victim, or a member of the victim's or intended victim's family, concerning the requested exemption;

(2) the relationship between the victim or intended victim and the petitioner at the time of the hearing; and

(3) any other evidence that the court determines is relevant and admissible.

(d) After a hearing on the petition described by Subsection (a), the court may issue an order exempting the person from registration under this chapter if it appears by a preponderance of the evidence that:

(1) the exemption does not threaten public safety;

(2) the person's conduct did not occur without the consent of the victim or intended victim as described by Section 22.011(b), Penal Code;

(3) the exemption is in the best interest of the victim or intended victim; and

(4) the exemption is in the best interest of justice.

(e) An order exempting the person from registration under this chapter does not expire, but the court shall withdraw the order if after the order is issued the person receives a reportable conviction or adjudication under this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 134 (S.B. 198), § 3, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 134 (S.B. 198), § 5 provides: "The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to any person who, on or after the effective date of this Act [September 1, 2011], is required to register under that chapter, regardless of whether the

offense or conduct for which the person is required to register occurs before, on, or after the effective date of this Act."

SUBCHAPTER H
EXEMPTIONS FROM REGISTRATION FOR CERTAIN JUVENILES

Art. 62.351. Motion and Hearing Generally.

(a) During or after disposition of a case under Section 54.04, Family Code, for adjudication of an offense for which registration is required under this chapter, the juvenile court on motion of the respondent shall conduct a hearing to determine whether the interests of the public require registration under this chapter. The motion may be filed and the hearing held regardless of whether the respondent is under 18 years of age. Notice of the motion and hearing shall be provided to the prosecuting attorney.

(b) The hearing is without a jury and the burden of persuasion is on the respondent to show by a preponderance of evidence that the criteria of Article 62.352(a) have been met. The court at the hearing may make its determination based on:

(1) the receipt of exhibits;

(2) the testimony of witnesses;

(3) representations of counsel for the parties; or

(4) the contents of a social history report prepared by the juvenile probation department that may include the results of testing and examination of the respondent by a psychologist, psychiatrist, or counselor.

(c) All written matter considered by the court shall be disclosed to all parties as provided by Section 54.04(b), Family Code.

(d) If a respondent, as part of a plea agreement, promises not to file a motion seeking an order exempting the respondent from registration under this chapter, the court may not recognize a motion filed by a respondent under this article.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.352. Order Generally.

(a) The court shall enter an order exempting a respondent from registration under this chapter if the court determines:

(1) that the protection of the public would not be increased by registration of the respondent under this chapter; or

(2) that any potential increase in protection of the public resulting from registration of the respondent is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration under this chapter.

(b) After a hearing under Article 62.351 or under a plea agreement described by Article 62.355(b), the juvenile court may enter an order:

(1) deferring decision on requiring registration under this chapter until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the Texas Juvenile Justice Department; or

(2) requiring the respondent to register as a sex offender but providing that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies, the Council on Sex Offender Treatment, and public or private institutions of higher education.

(c) If the court enters an order described by Subsection (b)(1), the court retains discretion and jurisdiction to require, or exempt the respondent from, registration under this chapter at any time during the treatment or on the successful or unsuccessful completion of treatment, except that during the period of deferral, registration may not be required. Following successful completion of treatment, the respondent is exempted from registration under this chapter unless a hearing under this subchapter is held on motion of the prosecuting attorney, regardless of whether the respondent is 18 years of age or older, and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.

(d) Information that is the subject of an order described by Subsection (b)(2) may not be posted on the Internet or released to the public.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 4, effective September 1, 2013.)

Art. 62.353. Motion, Hearing, and Order Concerning Person Already Registered.

(a) A person who has registered as a sex offender for an adjudication of delinquent conduct, regardless of when the delinquent conduct or the adjudication for the conduct occurred, may file a motion in the adjudicating juvenile court for a hearing seeking:

(1) exemption from registration under this chapter as provided by Article 62.351; or

(2) an order under Article 62.352(b)(2) that the registration become nonpublic.

(b) The person may file a motion under Subsection (a) in the original juvenile case regardless of

whether the person, at the time of filing the motion, is 18 years of age or older. Notice of the motion shall be provided to the prosecuting attorney. A hearing on the motion shall be provided as in other cases under this subchapter.

(c) Only one subsequent motion may be filed under Subsection (a) if a previous motion under this article has been filed concerning the case.

(d) To the extent feasible, the motion under Subsection (a) shall identify those public and private agencies and organizations, including public or private institutions of higher education, that possess sex offender registration information about the case.

(e) The juvenile court, after a hearing, may:

(1) deny a motion filed under Subsection (a);

(2) grant a motion described by Subsection (a)(1); or

(3) grant a motion described by Subsection (a)(2).

(f) If the court grants a motion filed under Subsection (a), the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to the department, to each local law enforcement authority that the person has proved to the juvenile court has registration information about the person, and to each public or private agency or organization that the person has proved to the juvenile court has information about the person that is currently available to the public with or without payment of a fee. The clerk of the court shall by certified mail, return receipt requested, send a copy of the order to any other agency or organization designated by the person. The person shall identify the agency or organization and its address and pay a fee of $20 to the court for each agency or organization the person designates.

(g) In addition to disseminating the order under Subsection (f), at the request of the person, the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to each public or private agency or organization that at any time following the initial dissemination of the order under Subsection (f) gains possession of sex offender registration information pertaining to that person, if the agency or organization did not otherwise receive a copy of the order under Subsection (f).

(h) An order under Subsection (f) must require the recipient to conform its records to the court's order either by deleting the sex offender registration information or changing its status to nonpublic, as applicable. A public or private institution of higher education may not be required to delete the sex offender registration information under this subsection.

(i) A private agency or organization that possesses sex offender registration information the agency or organization obtained from a state, county, or local governmental entity is required to conform the agency's or organization's records to the court's order on or before the 30th day after the date of the entry of the order. Unless the agency or organization is a public or private institution of higher education, failure to comply in that period automatically bars the agency or organization from obtaining sex offender registration information from any state, county, or local governmental entity in this state in the future.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.354. Motion, Hearing, and Order Concerning Person Required to Register Because of Out-of-State Adjudication.

(a) A person required to register as a sex offender in this state because of an out-of-state adjudication of delinquent conduct may file in the juvenile court of the person's county of residence a petition under Article 62.351 for an order exempting the person from registration under this chapter.

(b) If the person is already registered as a sex offender in this state because of an out-of-state adjudication of delinquent conduct, the person may file in the juvenile court of the person's county of residence a petition under Article 62.353 for an order removing the person from sex offender registries in this state.

(c) On receipt of a petition under this article, the juvenile court shall conduct a hearing and make rulings as in other cases under this subchapter.

(d) An order entered under this article requiring removal of registration information applies only to registration information derived from registration in this state.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.355. Waiver of Hearing.

(a) The prosecuting attorney may waive the state's right to a hearing under this subchapter and agree that registration under this chapter is not required. A waiver under this subsection must state whether the waiver is entered under a plea agreement.

(b) If the waiver is entered under a plea agreement, the court, without a hearing, shall:

(1) enter an order exempting the respondent from registration under this chapter; or

(2) under Section 54.03(j), Family Code, inform the respondent that the court believes a hearing under this article is required and give the respondent the opportunity to:

(A) withdraw the respondent's plea of guilty, nolo contendere, or true; or

(B) affirm the respondent's plea and participate in the hearing.

(c) If the waiver is entered other than under a plea agreement, the court, without a hearing, shall enter an order exempting the respondent from registration under this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.356. Effect of Certain Orders.

(a) A person who has an adjudication of delinquent conduct that would otherwise be reportable under Article 62.001(5) does not have a reportable adjudication of delinquent conduct for purposes of this chapter if the juvenile court enters an order under this subchapter exempting the person from the registration requirements of this chapter.

(b) If the juvenile court enters an order exempting a person from registration under this chapter, the respondent may not be required to register in this or any other state for the offense for which registration was exempted.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.357. Appeal of Certain Orders.

(a) Notwithstanding Section 56.01, Family Code, on entry by a juvenile court of an order under Article 62.352(a) exempting a respondent from registration under this chapter, the prosecuting attorney may appeal that order by giving notice of appeal within the time required under Rule 26.2(b), Texas Rules of Appellate Procedure. The appeal is civil and the standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in exempting the respondent from registration under this chapter. The appeal is limited to review of the order exempting the respondent from registration under this chapter and may not include any other issues in the case.

(b) A respondent may under Section 56.01, Family Code, appeal a juvenile court's order under Article 62.352(a) requiring registration in the same manner as the appeal of any other legal issue in the case. The standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in requiring registration.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

SUBCHAPTER I
EARLY TERMINATION OF CERTAIN PERSONS' OBLIGATION TO REGISTER

Art. 62.401. Definition.

In this subchapter, "council" means the Council on Sex Offender Treatment.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.402. Determination of Minimum Required Registration Period.

(a) The department by rule shall determine the minimum required registration period under federal law for each reportable conviction or adjudication under this chapter.

(b) After determining the minimum required registration period for each reportable conviction or adjudication under Subsection (a), the department shall compile and publish a list of reportable convictions or adjudications for which a person must register under this chapter for a period that exceeds the minimum required registration period under federal law.

(c) To the extent possible, the department shall periodically verify with the United States Department of Justice's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking or another appropriate federal agency or office the accuracy of the list of reportable convictions or adjudications described by Subsection (b).

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 134 (S.B. 198), § 4, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 134 (S.B. 198), § 5 provides: "The changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to any person who, on or after the effective date of this Act [September 1, 2011], is required to register under that chapter, regardless of whether the offense or conduct for which the person is required to register occurs before, on, or after the effective date of this Act."

Art. 62.403. Individual Risk Assessment.

(a) The council by rule shall establish, develop, or adopt an individual risk assessment tool or a group of individual risk assessment tools that:

(1) evaluates the criminal history of a person required to register under this chapter; and

(2) seeks to predict:

(A) the likelihood that the person will engage in criminal activity that may result in the

person receiving a second or subsequent reportable adjudication or conviction; and

(B) the continuing danger, if any, that the person poses to the community.

(b) On the written request of a person with a single reportable adjudication or conviction that appears on the list published under Article 62.402(b), the council shall:

(1) evaluate the person using the individual risk assessment tool or group of individual risk assessment tools established, developed, or adopted under Subsection (a); and

(2) provide to the person a written report detailing the outcome of an evaluation conducted under Subdivision (1).

(c) An individual risk assessment provided to a person under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.404. Motion for Early Termination.

(a) A person required to register under this chapter who has requested and received an individual risk assessment under Article 62.403 may file with the trial court that sentenced the person for the reportable conviction or adjudication a motion for early termination of the person's obligation to register under this chapter.

(b) A motion filed under this article must be accompanied by:

(1) a written explanation of how the reportable conviction or adjudication giving rise to the movant's registration under this chapter qualifies as a reportable conviction or adjudication that appears on the list published under Article 62.402(b); and

(2) a certified copy of a written report detailing the outcome of an individual risk assessment evaluation conducted under Article 62.403(b)(1).

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.405. Hearing on Petition.

(a) After reviewing a motion filed with the court under Article 62.404, the court may:

(1) deny without a hearing the movant's request for early termination; or

(2) hold a hearing on the motion to determine whether to grant or deny the motion.

(b) The court may not grant a motion filed under Article 62.404 if:

(1) the motion is not accompanied by the documents required under Article 62.404(b); or

(2) the court determines that the reportable conviction or adjudication for which the movant is required to register under this chapter is not a reportable conviction or adjudication for which the movant is required to register for a period that exceeds the minimum required registration period under federal law.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.406. Costs of Individual Risk Assessment and of Court.

A person required to register under this chapter who files a motion for early termination of the person's registration obligation under this chapter is responsible for and shall remit to the council and to the court, as applicable, all costs associated with and incurred by the council in providing the individual risk assessment or by the court in holding a hearing under this subchapter.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.407. Effect of Order Granting Early Termination.

(a) If, after notice to the person and to the prosecuting attorney and a hearing, the court grants a motion filed under Article 62.404 for the early termination of a person's obligation to register under this chapter, notwithstanding Article 62.101, the person's obligation to register under this chapter ends on the later of:

(1) the date the court enters the order of early termination; or

(2) the date the person has paid each cost described by Section 62.406.

(b) If the court grants a motion filed under Article 62.404 for the early termination of a person's obligation to register under this chapter, all conditions of the person's parole, release to mandatory supervision, or community supervision shall be modified in accordance with the court's order.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

Art. 62.408. Nonapplicability.

This subchapter does not apply to a person without a reportable conviction or adjudication who is required to register as a condition of parole, release to mandatory supervision, or community supervision.

(Enacted by Acts 2005, 79th Leg., ch. 1008 (H.B. 867), § 1.01, effective September 1, 2005.)

CHAPTER 63
MISSING CHILDREN AND MISSING PERSONS

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Art. 63.001. Definitions.

In this chapter:

(1) "Abduct" has the meaning assigned by Section 20.01, Penal Code.

(1-a) "Child" means a person under 18 years of age.

(2) "Missing person" means a person 18 years old or older whose disappearance is possibly not voluntary.

(3) "Missing child" means a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that:

(A) the child did not voluntarily leave the care and control of the custodian, and the taking of the child was not authorized by law;

(B) the child voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

(C) the child was taken or retained in violation of the terms of a court order for possession of or access to the child; or

(D) the child was taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention of the child was prompted by the commission or attempted commission of family violence, as defined by Section 71.004, Family Code, against the child or the actor.

(4) "Missing child" or "missing person" also includes a person of any age who is missing and:

(A) is under proven physical or mental disability or is senile, and because of one or more of these conditions is subject to immediate danger or is a danger to others;

(B) is in the company of another person or is in a situation the circumstances of which indicate that the missing child's or missing person's safety is in doubt; or

(C) is unemancipated as defined by the law of this state.

(5) "Missing child or missing person report" means information that is:

(A) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(B) about a child or missing person whose whereabouts are unknown to the reporter and who is alleged in the form by the reporter to be missing.

(6) "Legal custodian of a child" means a parent of a child if no managing conservator or guardian of the person of the child has been appointed, the managing conservator of a child or a guardian of a child if a managing conservator or guardian has been appointed for the child, a possessory conservator of a child if the child is absent from the possessory conservator of the child at a time when the possessory conservator is entitled to possession of the child and the child is not believed to be with the managing conservator, or any other person who has assumed temporary care and control of a child if at the time of disappearance the child was not living with his parent, guardian, managing conservator, or possessory conservator.

(7) "Clearinghouse" means the missing children and missing persons information clearinghouse.

(8) "Law enforcement agency" means a police department of a city in this state, a sheriff of a county in this state, or the Department of Public Safety.

(9) "Possible match" occurs if the similarities between an unidentified body and a missing child or person would lead one to believe they are the same person.

(10) "City or state agency" means an employment commission, the Texas Department of Human Services, the Texas Department of Transportation, and any other agency that is funded or supported by the state or a city government.

(11) "Birth certificate agency" means a municipal or county official that records and maintains birth certificates and the bureau of vital statistics.

(12) "Bureau of vital statistics" means the bureau of vital statistics of the Texas Department of Health.

(13) "School" means a public primary school or private primary school that charges a fee for tuition and has more than 25 students enrolled and attending courses at a single location.

(Enacted by Acts 1985, 69th Leg., ch. 132 (H.B. 248), § 1, effective May 22, 1985; am. Acts 1987, 70th Leg., ch. 167 (S.B. 892), § 5.01(a 26), effective September 1, 1987 (renumbered from Human Resources Code Sec. 74.001); am. Acts 1987, 70th Leg., ch. 657 (S.B. 223), § 1, effective June 18, 1987; am. Acts 1987, 70th Leg., ch. 1052 (S.B. 298), § 7.03, effective

September 1, 1987; am. Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 22(43), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 178 (H.B. 223), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 51 (H.B. 1092), § 1, effective May 7, 1997; am. Acts 1997, 75th Leg., ch. 1084 (H.B. 1516), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1427 (H.B. 2899), § 1, effective September 1, 1997 (renumbered from Human Resources Code Sec. 79.001); am. Acts 1999, 76th Leg., ch. 7 (S.B. 351), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), §§ 3.10, 19.01(8), effective September 1, 1999 (renumbered from art. 62.001); am. Acts 2011, 82nd Leg., ch. 840 (H.B. 3439), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1019 (H.B. 2662), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1100 (S.B. 1551), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 571 (S.B. 742), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 840 (H.B. 3439), § 3 and Acts 2011, 82nd Leg., ch. 1019 (H.B. 2662), § 2 provides: "The change in law made by this Act in amending Article 63.001(3), Code of Criminal Procedure, applies only to the report of a missing child made under Chapter 63, Code of Criminal Procedure, as amended by this Act, on or after the effective date of this Act [September 1, 2011]. The report of a missing child made before the effective date of this Act is governed by the law in effect when the report was made, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1100 (S.B. 1551), § 5 provides: "The change in law made by this Act in amending Subdivision (3), Article 63.001, Code of Criminal Procedure, applies only to the report of a missing child made under Chapter 63, Code of Criminal Procedure, as amended by this Act, on or after the effective date of this Act [September 1, 2011]. The report of a missing child made before the effective date of this Act is governed by the law in effect when the report was made, and the former law is continued in effect for that purpose."

Art. 63.019. School Records System.

(a) On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

(1) request from the person enrolling the child the name of each previous school attended by the child;

(2) request from each school identified in Subdivision (1), the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, birth date, and grades and dates attended; and

(3) notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:

(A) a certified copy of the child's birth certificate; or

(B) other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

(b) If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required by this section, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply with this section. On receipt of notification, the law enforcement agency shall immediately check the clearinghouse to determine if the child has been reported missing. If the child has been reported missing, the law enforcement agency shall immediately notify other appropriate law enforcement agencies that the missing child has been located.

(Enacted by Acts 1997, 75th Leg., ch. 1084 (H.B. 1516), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(8)(B), effective September 1, 1999 (renumbered from Human Resources Code Sec. 79.017).)

Art. 63.020. Duty of Schools and Other Entities to Flag Missing Children's Records.

(a) When a report that a child under 11 years of age is missing is received by a law enforcement agency, the agency shall immediately notify each school and day care facility that the child attended or in which the child was enrolled as well as the bureau of vital statistics, if the child was born in the state, that the child is missing.

(b) On receipt of notice that a child under 11 years of age is missing, the bureau of vital statistics shall notify the appropriate municipal or county birth certificate agency that the child is missing.

(c) A school, day care facility, or birth certificate agency that receives notice concerning a child under this section shall flag the child's records that are maintained by the school, facility, or agency.

(d) The law enforcement agency shall notify the clearinghouse that the notification required under this section has been made. The clearinghouse shall provide the notice required under this section if the clearinghouse determines that the notification has not been made by the law enforcement agency.

(e) If a missing child under 11 years of age, who was the subject of a missing child report made in this state, was born in or attended a school or licensed day care facility in another state, the law enforcement agency shall notify law enforcement or the missing and exploited children clearinghouse in each appropriate state regarding the missing child and request the law enforcement agency or clearinghouse to contact the state birth certificate agency

and each school or licensed day care facility the missing child attended to flag the missing child's records.

(Enacted by Acts 1997, 75th Leg., ch. 1084 (H.B. 1516), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(8)(B), effective September 1, 1999 (renumbered from Human Resources Code Sec. 79.018) (renumbered from Human Resources Code Sec. 79.018).)

Art. 63.021. System for Flagging Records.

(a) On receipt of notification by a law enforcement agency or the clearinghouse regarding a missing child under 11 years of age, the school, day care facility, or birth certificate agency shall maintain the child's records in its possession so that on receipt of a request regarding the child, the school, day care facility, or agency will be able to notify law enforcement or the clearinghouse that a request for a flagged record has been made.

(b) When a request concerning a flagged record is made in person, the school, day care facility, or agency may not advise the requesting party that the request concerns a missing child and shall:

(1) require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made and the name, address, and birth date of the child;

(2) obtain a copy of the requesting party's driver's license or other photographic identification, if possible;

(3) if the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and

(4) immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

(c) After providing the notification required under Subsection (a)(4), the school, day care facility, or agency shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

(d) When a request concerning a flagged record is made in writing, the school, day care facility, or agency may not advise the party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification under this subsection, the school, day care facility, or agency shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

(Enacted by Acts 1997, 75th Leg., ch. 1084 (H.B. 1516), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(8)(B), effective September 1, 1999 (renumbered from Human Resources Code Sec. 79.019).)

Art. 63.022. Removal of Flag From Records.

(a) On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school or day care facility that has maintained flagged records for the child and the bureau of vital statistics that the child is no longer missing. The law enforcement agency shall notify the clearinghouse that notification under this section has been made. The bureau of vital statistics shall notify the appropriate municipal or county birth certificate agency. The clearinghouse shall notify the school, day care facility, or bureau of vital statistics that the missing child is no longer missing if the clearinghouse determines that the notification was not provided by the law enforcement agency.

(b) On notification by the law enforcement agency or the clearinghouse that a missing child has been recovered, the school, day care facility, or birth certificate agency that maintained flagged records shall remove the flag from the records.

(c) A school, day care facility, or birth certificate agency that has reason to believe a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the clearinghouse. If a response is not received after the 45th day after the date of the request for confirmation, the school, day care facility, or birth certificate agency may remove the flag from the record and shall inform the law enforcement agency or the clearinghouse that the flag has been removed.

(Enacted by Acts 1997, 75th Leg., ch. 1084 (H.B. 1516), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(8)(B), effective September 1, 1999 (renumbered from Human Resources Code Sec. 79.020).)

TITLE 2
CODE OF CRIMINAL PROCEDURE

CHAPTER 102
COSTS PAID BY DEFENDANTS

Subchapter A. General Costs

SUBCHAPTER A
GENERAL COSTS

Art. 102.014. Court Costs for Child Safety Fund in Municipalities.

(a) The governing body of a municipality with a population greater than 850,000 according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Section 542.202, Transportation Code, or Chapter 682, Transportation Code, shall by order assess a court cost on each parking violation not less than $2 and not to exceed $5. The court costs under this subsection shall be collected in the same manner that other fines in the case are collected.

(b) The governing body of a municipality with a population less than 850,000 according to the most recent federal decennial census that has adopted an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles as allowed by Section 542.202, Transportation Code, or Chapter 682, Transportation Code, may by order assess a court cost on each parking violation not to exceed $5. The additional court cost under this subsection shall be collected in the same manner that other fines in the case are collected.

(c) A person convicted of an offense under Subtitle C, Title 7, Transportation Code, when the offense occurs within a school crossing zone as defined by Section 541.302 of that code, shall pay as court costs $25 in addition to other taxable court costs. A person convicted of an offense under Section 545.066, Transportation Code, shall pay as court costs $25 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected and shall be assessed only in a municipality.

(d) A person convicted of an offense under Section 25.093 or 25.094, Education Code, shall pay as taxable court costs $20 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.

(e) In this article, a person is considered to have been convicted in a case if the person would be considered to have been convicted under Section 133.101, Local Government Code.

(f) In a municipality with a population greater than 850,000 according to the most recent federal decennial census, the officer collecting the costs in a municipal court case shall deposit money collected under this article in the municipal child safety trust fund established as required by Chapter 106, Local Government Code.

(g) In a municipality with a population less than 850,000 according to the most recent federal decennial census, the money collected under this article in a municipal court case must be used for a school crossing guard program if the municipality operates one. If the municipality does not operate a school crossing guard program or if the money received from court costs from municipal court cases exceeds the amount necessary to fund the school crossing guard program, the municipality may:

(1) deposit the additional money in an interest-bearing account;

(2) expend the additional money for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention; or

(3) expend the additional money for programs designed to enhance public safety and security.

(h) Money collected under this article in a justice, county, or district court shall be used to fund school crossing guard programs in the county where they are collected. If the county does not operate a school crossing guard program, the county may:

(1) remit fee revenues to school districts in its jurisdiction for the purpose of providing school crossing guard services;

(2) fund programs the county is authorized by law to provide which are designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention;

(3) provide funding to the sheriff's department for school-related activities;

(4) provide funding to the county juvenile probation department; or

(5) deposit the money in the general fund of the county.

(i) Each collecting officer shall keep separate records of money collected under this article.

(Enacted by Acts 1991, 72nd Leg., ch. 830 (S.B. 460), § 2, effective July 1, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 10.03, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 50 (H.B. 1018), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.05, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1384 (H.B. 1553), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 983 (H.B. 374), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 10, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 209 (H.B. 2424), § 69(a), effective January 1, 2004; am. Acts 2009, 81st Leg., ch. 162 (S.B. 446), § 1, effective May 26, 2009.)

Election Code

TITLE 1
INTRODUCTORY PROVISIONS

CHAPTER 1
GENERAL PROVISIONS

Section

Sec. 1.001. Short Title.

This code may be cited as the Election Code.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.002. Applicability of Code.

(a) This code applies to all general, special, and primary elections held in this state.

(b) This code supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.003. Construction of Code.

(a) The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

(b) When a provision of this code provides that it supersedes another specifically referenced provision of this code to the extent of any conflict, no conflict is created by the failure of the superseding provision, or of related provisions, to repeat the substance of the referenced provision; rather, a conflict exists only if the substance of the superseding and any related provisions is irreconcilable with the substance of the referenced provision. If the substance of the superseding provision, together with any related provisions, and the substance of the referenced provision can each be applied to the same subject or set of circumstances, both provisions shall be given effect.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 17, effective September 1, 1987.)

Sec. 1.004. Internal References.

In this code:

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

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

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.005. Definitions.

In this code:

(1) "City secretary" includes a city clerk or, in a city that has no city secretary or clerk, the city officer who performs the duties of a city secretary.

(2) "County election precinct" means an election precinct established under Section 42.001.

(3) "County office" means an office of the county government that is voted on countywide.

(4) "District office" means an office of the federal or state government that is not voted on statewide.

(5) "Final canvass" means the canvass from which the official result of an election is determined.

(6) "General election" means an election, other than a primary election, that regularly recurs at fixed dates.

(7) "General election for state and county officers" means the general election at which officers

of the federal, state, and county governments are elected.

(8) "Gubernatorial general election" means the general election held every four years to elect a governor for a full term.

(9) "Independent candidate" means a candidate in a nonpartisan election or a candidate in a partisan election who is not the nominee of a political party.

(10) "Law" means a constitution, statute, city charter, or city ordinance.

(11) "Local canvass" means the canvass of the precinct election returns.

(12) "Measure" means a question or proposal submitted in an election for an expression of the voters' will.

(13) "Political subdivision" means a county, city, or school district or any other governmental entity that:

(A) embraces a geographic area with a defined boundary;

(B) exists for the purpose of discharging functions of government; and

(C) possesses authority for subordinate self-government through officers selected by it.

(14) "Primary election" means an election held by a political party under Chapter 172 to select its nominees for public office, and, unless the context indicates otherwise, the term includes a presidential primary election.

(15) "Proposition" means the wording appearing on a ballot to identify a measure.

(16) "Registered voter" means a person registered to vote in this state whose registration is effective.

(17) "Residence address" means the street address and any apartment number, or the address at which mail is received if the residence has no address, and the city, state, and zip code that correspond to a person's residence.

(18) "Special election" means an election that is not a general election or a primary election.

(19) "Statewide office" means an office of the federal or state government that is voted on statewide.

(20) "Straight-party vote" means a vote by a single mark, punch, or other action by the voter for all the nominees of one political party and for no other candidates.

(21) "Uniform election date" means an election date prescribed by Section 41.001.

(22) "Voting station" means the voting booth or other place where voters mark their ballots or otherwise indicate their votes at a polling place.

(23) "Voting year" means the 12-month period beginning January 1 of each year.

(24) "Presidential primary election" means an election held under Subchapter A, Chapter 191, at which a political party's voters are given an opportunity to express their preferences for the party's presidential candidates, or for an "uncommitted" status if provided by party rule, for the purpose of determining the allocation of the party's delegates from this state to the party's national presidential nominating convention.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1986, 69th Leg., 3rd C.S., ch. 14 (S.B. 4), § 2, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 436 (S.B. 1441), § 9, effective September 1, 1989; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 52, effective September 1, 1989.)

Sec. 1.006. Effect of Weekend or Holiday.

(a) If the last day for performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day, except as otherwise provided by this code.

(b) If the last day for performance of an act is extended under Subsection (a), the extended date is used to determine any other dates and deadlines, and the dates or times of any related procedures, that are expressly required to be made on a date or at a time determined in relation to the last day for performance of the act.

(c) A declaration of ineligibility of a candidate is considered to be the performance of an act under this section for purposes of causing the candidate's name to be omitted from the ballot.

(d) The filing of a document, including a withdrawal request or resignation, is considered to be the performance of an act under this section for purposes of creating a vacancy to be filled at a subsequent election.

(e) The death of a person is not considered to be the performance of an act under this section.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 1, effective September 1, 2003.)

Sec. 1.007. Delivering, Submitting, and Filing Documents.

(a) When this code provides for the delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under this code, a delivery, submission, or filing with an employee of the authority at the authority's usual place for conduct-

ing official business constitutes filing with the authority.

(b) The authority to whom a delivery, submission, or filing is required by this code to be made may accept the document or paper at a place other than the authority's usual place for conducting official business.

(c) A delivery, submission, or filing of a document or paper under this code may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission.

(d) Any other provision of this code supersedes this section to the extent of any conflict.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 1, effective September 1, 1997; am. Acts 2013, 83rd Leg., ch. 1178 (S.B. 910), § 1, effective September 1, 2013.)

Sec. 1.008. Timeliness of Action by Mail.

When this code requires an application, notice, report, or other document or paper to be delivered, submitted, or filed within a specified period or before a specified deadline, a delivery, submission, or filing by first-class United States mail is timely, except as otherwise provided by this code, if:

(1) it is properly addressed with postage prepaid; and

(2) it bears a post office cancellation mark indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail within the period or before the deadline.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.009. Time of Receipt of Mailed Document.

(a) When this code provides that an application, notice, or other document or paper that is delivered, submitted, or filed by mail is considered to be delivered, submitted, or filed at the time of its receipt by the appropriate authority, the time of receipt is the time at which a post office employee:

(1) places it in the actual possession of the authority or the authority's agent; or

(2) deposits it in the authority's mailbox or at the usual place of delivery for the authority's official mail.

(b) If the authority cannot determine the time at which a deposit under Subsection (a)(2) occurred or whether it occurred before a specified deadline, the deposit is considered to have occurred at the time the mailbox or usual place of mail delivery, as applicable, was last inspected for removal of mail.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 2, effective September 1, 1997.)

Sec. 1.010. Availability of Official Forms.

(a) The office, agency, or other authority with whom this code requires an application, report, or other document or paper to be submitted or filed shall make printed forms for that purpose, as officially prescribed, readily and timely available.

(b) The authority shall furnish forms in a reasonable quantity to a person requesting them for the purpose of submitting or filing the document or paper.

(c) The forms shall be furnished without charge, except as otherwise provided by this code.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.011. Signing Document by Witness.

(a) When this code requires a person to sign an application, report, or other document or paper, except as otherwise provided by this code, the document or paper may be signed for the person by a witness, as provided by this section, if the person required to sign cannot do so because of a physical disability or illiteracy.

(b) The person who cannot sign must affix the person's mark to the document or paper, which the witness must attest. If the person cannot make the mark, the witness must state that fact on the document or paper.

(c) The witness must state on the document or paper the name, in printed form, of the person who cannot sign.

(d) The witness must affix the witness's own signature to the document or paper and state the witness's own name, in printed form, near the signature. The witness must also state the witness's residence address unless the witness is an election officer, in which case the witness must state the witness's official title.

(e) The procedure prescribed by this section must be conducted in the presence of the person who cannot sign.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 3, effective September 1, 1997.)

Sec. 1.012. Public Inspection of Election Records.

(a) Subject to Subsection (b), an election record that is public information shall be made available to

the public during the regular business hours of the record's custodian.

(b) For the purpose of safeguarding the election records or economizing the custodian's time, the custodian may adopt reasonable rules limiting public access.

(c) Except as otherwise provided by this code or Chapter 552, Government Code, all election records are public information.

(d) In this code, "election record" includes:

(1) anything distributed or received by government under this code;

(2) anything required by law to be kept by others for information of government under this code; or

(3) a certificate, application, notice, report, or other document or paper issued or received by government under this code.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(88), effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 393 (H.B. 54), § 1, effective September 1, 2003.)

Sec. 1.013. Destruction of Records.

After expiration of the prescribed period for preserving voted ballots, election returns, other election records, or other records that are preserved under this code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding in connection with an election to which the records pertain is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.014. Election Expenses.

(a) Except as otherwise provided by law, the expenses incurred in the conduct of a general or special election shall be paid by the political subdivision served by the authority ordering the election.

(b) Each county in the territory covered by an election ordered by the governor shall pay the expenses incurred in that particular county in the conduct of the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 1.015. Residence.

(a) In this code, "residence" means domicile, that is, one's home and fixed place of habitation to which one intends to return after any temporary absence.

(b) Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by this code.

(c) A person does not lose the person's residence by leaving the person's home to go to another place for temporary purposes only.

(d) A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home.

(e) A person who is an inmate in a penal institution or who is an involuntary inmate in a hospital or eleemosynary institution does not, while an inmate, acquire residence at the place where the institution is located.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 4, effective September 1, 1997.)

Sec. 1.016. Computation of Age [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 433 (H.B. 2181), § 1, effective September 1, 2009 and by Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(1), effective September 1, 2009.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 433 (H.B. 2181), § 2 provides: "The change in law made by the repeal of Section 1.016, Election Code, by this Act does not affect the validity of a person's action taken before the effective date of this Act [September 1, 2009], including a person's registration to vote, if the person was qualified to take such action before the effective date of this Act."

Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 1.017. Ineligibility No Defense to Prosecution.

It is no defense to prosecution under this code that a person who receives an official ballot is ineligible to vote in the election for which the ballot is received.

(Enacted by Acts 2003, 78th Leg., ch. 393 (H.B. 54), § 2, effective September 1, 2003.)

Sec. 1.018. Applicability of Penal Code.

In addition to Section 1.03, Penal Code, and to other titles of the Penal Code that may apply to this code, Title 4, Penal Code, applies to offenses prescribed by this code.

(Enacted by Acts 2003, 78th Leg., ch. 393 (H.B. 54), § 2, effective September 1, 2003.)

Sec. 1.019. Required Evidence or Testimony.

(a) A party to an offense under this code may be required to furnish evidence or testimony about the offense.

(b) Evidence or testimony required to be furnished under this section, or information directly or indirectly derived from that evidence or testimony, may not be used against the party providing the evidence or testimony in a criminal case except for a prosecution of aggravated perjury or contempt.

(Enacted by Acts 2003, 78th Leg., ch. 393 (H.B. 54), § 2, effective September 1, 2003.)

Sec. 1.020. Voting Disability or Candidacy Disqualification: Determination of Mental Incapacity.

(a) A person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

(b) A person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

(Enacted by Acts 2007, 80th Leg., ch. 614 (H.B. 417), § 21, effective September 1, 2007.)

CHAPTER 2
VOTE REQUIRED FOR ELECTION TO OFFICE

Subchapter A. Election by Plurality

Subchapter B. Runoff Election

Subchapter C. Election of Unopposed Candidate

Subchapter D. Cancellation of Elections

SUBCHAPTER A
ELECTION BY PLURALITY

Sec. 2.001. Plurality Vote Required.

Except as otherwise provided by law, to be elected to a public office, a candidate must receive more votes than any other candidate for the office.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 2.002. Tie Vote.

(a) Except as provided by Subsection (f), (g), or (i), in an election requiring a plurality vote, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held.

(b) Not later than the fifth day after the date the automatic recount required by Subsection (i) is completed or the final canvass following the automatic recount is completed, if applicable, the authority responsible for ordering the first election shall order the second election. The second election shall be held not earlier than the 20th day or later than the 30th day after the date the automatic recount required by Subsection (i) is completed or the final canvass following the automatic recount is completed, if applicable.

(c) The names of the tying candidates only shall be printed on the ballot for the second election. Write-in votes are not permitted. If either of the candidates is a party nominee, the title of the office shall be listed on the ballot in a vertical column with the name of each candidate listed below the office title with each candidate's political party alignment next to the name.

(d) The order of the candidates' names on the ballot shall be determined by a drawing in accordance with Section 52.094.

(e) Notice of the second election shall be given in accordance with Chapter 4 except that a notice under Section 4.003(a)(2) or (b) must be posted not later than the 15th day before election day.

(f) The tying candidates may agree to cast lots to resolve the tie. The agreement must be filed with the authority responsible for ordering the election. That authority or, if the authority is a body, the body's presiding officer, shall supervise the casting of lots.

(g) A tying candidate may resolve the tie by filing with the authority described by Subsection (f) a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held.

(h) This section does not apply to elective offices of the executive department specified by Article IV, Section 1, of the Texas Constitution.

(i) If the tie vote is not resolved under Subsection (f) or (g), an automatic recount shall be conducted in accordance with Chapter 216 before the second election is held. If the recount resolves the tie, the second election is not held.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 851 (H.B. 1599), § 1, effective September 1, 2001.)

SUBCHAPTER B
RUNOFF ELECTION

Sec. 2.021. Runoff Election Required.

If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 2.022. Conflicts with Other Law.

(a) Except as provided by Subsection (b), a law outside this subchapter supersedes this subchapter to the extent of any conflict.

(b) Sections 2.023 and 2.028 supersede a law outside this subchapter to the extent of any conflict.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 652 (H.B. 2152), § 1, effective September 1, 2003.)

Sec. 2.023. Runoff Candidates.

(a) Except as provided by Subsections (b) and (c), the candidates in a runoff election are the candidates who receive the highest and second highest number of votes in the main election or who tie for the highest number of votes.

(b) If more than two candidates tie for the highest number of votes in the main election, an automatic recount shall be conducted in accordance with Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine which two are to be the runoff candidates.

(c) If two or more candidates tie for the second highest number of votes in the main election, an automatic recount shall be conducted in accordance with Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine which one is to be the second candidate in the runoff election.

(d) The presiding officer of the final canvassing authority for the election shall supervise the casting of lots under this section.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 652 (H.B. 2152), § 2, effective September 1, 2003.)

Sec. 2.024. Ordering Runoff.

Not later than the fifth day after the date the final canvass of the main election is completed, the authority responsible for ordering the main election shall order the runoff election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 2.025. Runoff Election Day.

(a) Except as provided by Subsection (d) or as otherwise provided by this code, a runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the main election is completed.

(b) A runoff election date later than the period prescribed by Subsection (a) may be prescribed by a home-rule city charter.

(c) This section supersedes a law outside this subchapter to the extent of a conflict notwithstanding Section 2.022.

(d) A runoff election for a special election to fill a vacancy in Congress or a special election to fill a vacancy in the legislature to which Section 101.104 applies shall be held not earlier than the 70th day or later than the 77th day after the date the final canvass of the main election is completed.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., 2nd C.S., ch. 60 (H.B. 28), § 2, effective October 20, 1987; am. Acts 1991, 72nd Leg., ch. 389 (H.B. 2552), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 2, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 2, effective September 1, 2003;

am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 2.026. Notice of Runoff.

Notice of a runoff election shall be given in accordance with Chapter 4 except that a notice under Section 4.003(a)(2) or (b) must be posted not later than the 15th day before election day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 2.027. Certification of Runoff Candidates.

The presiding officer of the final canvassing authority shall certify in writing for placement on a runoff election ballot the names of the runoff candidates and shall deliver the certification to the authority responsible for having the official ballot prepared.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 2.028. Tie Vote in Runoff.

(a) Except as provided by Subsection (c), if the candidates in a runoff election tie, an automatic recount shall be conducted in accordance with Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine the winner.

(b) The presiding officer of the final canvassing authority shall supervise the casting of lots under this section.

(c) A tying candidate may resolve the tie by filing with the presiding officer of the final canvassing authority a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a casting of lots is not held.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 2, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 652 (H.B. 2152), § 3, effective September 1, 2003.)

SUBCHAPTER C
ELECTION OF UNOPPOSED CANDIDATE

Sec. 2.051. Applicability of Subchapter.

(a) Except as provided by Sections 2.055 and 2.056, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b). For purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from:

(1) a general election for officers of the political subdivision held at the same time as the special election; or

(2) another special election of the political subdivision held at the same time as the special election.

(b) In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, this subchapter applies to the election in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed and no at-large proposition or opposed at-large race is to appear on the ballot. This subchapter applies to an unopposed at-large race in such an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit.

(Enacted by Acts 1995, 74th Leg., ch. 667 (S.B. 680), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 3, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 17 (H.B. 831), § 1, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1061 (H.B. 1476), § 1, effective September 13, 2003; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.01, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 2.052. Certification of Unopposed Status.

(a) The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

(b) The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

(Enacted by Acts 1995, 74th Leg., ch. 667 (S.B. 680), § 1, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.02, effective September 1, 2005.)

Sec. 2.053. Action on Certification.

(a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held.

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

(Enacted by Acts 1995, 74th Leg., ch. 667 (S.B. 680), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 4, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 2, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 2.054. Coercion Against Candidacy Prohibited.

(a) In an election that may be subject to this subchapter, a person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:

(1) not file an application for a place on the ballot or a declaration of write-in candidacy; or

(2) withdraw as a candidate.

(b) In this section, "coercion" has the meaning assigned by Section 1.07, Penal Code.

(c) An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

(Enacted by Acts 1995, 74th Leg., ch. 667 (S.B. 680), § 1, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 3, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 2.055. Special Election to Fill Vacancy in Legislature.

(a) The secretary of state shall declare an unopposed candidate elected to fill a vacancy in the legislature if:

(1) each candidate for an office that is to appear on the ballot is unopposed; and

(2) no proposition is to appear on the ballot.

(b) The declaration under Subsection (a) shall be made on the second day after:

(1) the last date an application for a place on the special election ballot may be filed; or

(2) the date of a withdrawal, death, or final judgment of ineligibility of a candidate that causes the remaining candidate to be unopposed.

(c) After a declaration is made under Subsection (a), the election is not held. A copy of the declaration shall be posted on election day at each polling place that would have been used in the election.

(d) At the same time a declaration is made under Subsection (a), the secretary of state shall issue a certificate of election to each candidate in the same manner as provided for a candidate elected at the election.

(Enacted by Acts 2001, 77th Leg., ch. 17 (H.B. 831), § 2, effective January 1, 2002; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.03, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 467 (H.B. 184), § 1, effective September 1, 2011.)

Sec. 2.056. Unopposed Candidate for Office of State or County Government.

(a) In this section:

(1) "Certifying authority" means:

(A) the secretary of state, for a statewide or district office; or

(B) the county clerk, for a county or precinct office.

(2) "Office of the state or county government" means an office described by Section 52.092(a)(2) or (3).

(b) This section applies only to the general election for state and county officers.

(c) A certifying authority may declare a candidate elected to an office of the state or county government if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

(d) If a declaration is made under Subsection (c):

(1) the election for that office is not held; and

(2) the name of the candidate is listed on the ballot as elected to the office as provided by this section.

(e) The offices and names of any candidates declared elected under this section shall be listed separately after the contested races in the election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped according to their respective political party affiliations or status as independents in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(f) The secretary of state by rule may prescribe any additional procedures as necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(g) The certifying authority shall issue a certificate of election to a candidate declared elected under this section in the same manner as provided for a candidate elected at the election.

(Enacted by Acts 2003, 78th Leg., ch. 1061 (H.B. 1476), § 2, effective September 13, 2003; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.04, effective September 1, 2005.)

SUBCHAPTER D
CANCELLATION OF ELECTIONS

Sec. 2.081. Cancellation of Moot Measure.

(a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.

(b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

(Enacted by Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 4, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 2.082. Specific Authority for Cancellation Required.

An authority that orders an election may cancel the election only if the power to cancel the election is specifically provided by statute.

(Enacted by Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 4, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

CHAPTER 3
ORDERING ELECTION

Section

Sec. 3.001. Order Required.

Each general and special election shall be ordered as provided by this chapter.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 3.003. Election Ordered by Governor.

(a) The governor shall order:

(1) each general election for officers of the state government, members of the United States Congress, and electors for president and vice-president of the United States;

(2) each election on a proposed constitutional amendment; and

(3) each special election to fill a vacancy in the legislature or in congress.

(b) The order shall be made by proclamation.

(c) Not later than the 36th day before election day, a copy of the proclamation ordering an election shall be mailed to the county judge of each county wholly or partly in the territory covered by the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 3.004. Election of Political Subdivision.

(a) The following authority shall order an election:

(1) the county judge, for the general election for officers of the county government;

(2) the mayor, for the general election for city officers in a city with a population of 1.9 million or more; and

(3) the governing body of a political subdivision, other than a county or a city described by Subdivision (2), that has elective offices, for the general election for those officers.

(b) If a law providing for an election relating to the affairs of a political subdivision does not designate the authority responsible for ordering the election, the governing body of the political subdivision shall order the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2001, 77th Leg., ch. 340 (S.B. 79), § 1, effective September 1, 2001.)

Sec. 3.005. Time for Ordering Election.

(a) Except as provided by Subsections (c) and (d), an election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day.

(b) This section supersedes a law outside this code to the extent of any conflict.

(c) For an election to be held on:

(1) the date of the general election for state and county officers, the election shall be ordered not later than the 78th day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the election shall be ordered not later than the 71st day before election day.

(d) An election under Section 26.08, Tax Code, to ratify a tax rate adopted by the governing body of a school district under Section 26.05(g) of that code shall be ordered not later than the 30th day before election day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 925 (S.B. 1215), § 1, effective November 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 2, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 78, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 3, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 101 provides: "Section 44.004, Education Code, Sections 3.005 and 4.008, Election Code, and Sections 26.01 and 26.05, Tax Code, as amended by this Act, apply only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act [September 1, 2009]."

Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 3.006. Contents of Election Order.

In addition to any other elements required to be included in an election order by other law, each election order must state the date of the election and the offices or measures to be voted on at the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 3.007. Failure to Order General Election.

Failure to order a general election does not affect the validity of the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 3.008. Preservation of Election Order.

(a) The authority ordering an election shall preserve the order, proclamation, or other document ordering the election for the period for preserving the precinct election records.

(b) For an election ordered by an authority of a political subdivision, the date and nature of each election shall be entered in the official records of the political subdivision's governing body. For an election on a measure, the entry must include a description of the measure.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

CHAPTER 4
NOTICE OF ELECTION

Section

Sec. 4.001. Notice Required.

Notice of each general and special election shall be given as provided by this chapter.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 4.002. Authority Responsible for Giving Notice.

Except as otherwise provided by law, the following authority shall give notice of an election:

(1) the county judge of each county wholly or partly in the territory covered by the election, for an election ordered by the governor;

(2) the presiding officer of the governing body of a political subdivision, for an election ordered by the presiding officer or the governing body; and

(3) the authority ordering the election, for an election ordered by any other authority.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 4.003. Method of Giving Notice.

(a) Except as provided by Subsection (c), notice of an election must be given by any one or more of the following methods:

(1) by publishing the notice at least once, not earlier than the 30th day or later than the 10th day before election day:

(A) in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice; or

(B) in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice;

(2) by posting, not later than the 21st day before election day, a copy of the notice at a public place in each election precinct that is in the jurisdiction of the authority responsible for giving the notice; or

(3) by mailing, not later than the 10th day before election day, a copy of the notice to each registered voter of the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice.

(b) In addition to any other notice given for an election under Subsection (a), not later than the 21st day before election day, the authority responsible for giving notice of the election shall post a copy of the notice, which must include the location of each polling place, on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. For each precinct that is combined to form a consolidated precinct under Section 42.008, not later than the 10th day before election day, the authority shall also post, at the polling place used in the preceding general election, notice of the precinct's consolidation and the location of the polling place in the consolidated precinct. A notice posted under this subsection must remain posted continuously through election day.

(c) In addition to any other notice given, notice of an election ordered by a commissioners court or by an authority of a city or school district must be given by the method prescribed by Subsection (a)(1).

(d) If other law prescribes the method of giving notice of an election, that law supersedes this section, except that Subsection (c) applies regardless of the notice requirements prescribed by other law with respect to an election covered by that subsection.

(e) The authority responsible for giving notice of the election shall deliver to the secretary of state a copy of the notice of a consolidated precinct required by Subsection (b) not later than the date of the election.

(f) A debt obligation election order required under Section 3.009 shall be posted:

(1) on election day and during early voting by personal appearance, in a prominent location at each polling place;

(2) not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and

(3) during the 21 days before the election, on the political subdivision's Internet website, prominently and together with the notice of the election and the contents of the proposition, if the political subdivision maintains an Internet website.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 479 (H.B. 1052), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 114 (S.B. 1050), § 1, effective September 1, 1989; am. Acts 2013, 83rd Leg., ch. 554 (S.B. 637), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 554 (S.B. 637), § 3 provides: "The changes in law made by this Act apply only to an election ordered on or after the effective date of this Act [September 1, 2013]. An election ordered before the effective date of this Act is governed by the law in effect when the election was ordered, and the former law is continued in effect for that purpose."

Sec. 4.004. Contents of Notice.

(a) The notice of a general or special election must state:

(1) the nature and date of the election;

(2) except as provided by Subsection (c), the location of each polling place;

(3) the hours that the polls will be open; and

(4) any other information required by other law.

(b) The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. This subsection does not apply to an election on a proposed constitutional amendment.

(c) If notice of an election is given by posting the notice in the various election precincts, the notice posted in a precinct is not required to state the location of the polling places in other precincts.

(d) If precincts are consolidated under Section 42.008, the notice must state which precincts have

been combined to form each consolidated precinct in addition to the locations of the polling places in the consolidated precincts.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 479 (H.B. 1052), § 2, effective September 1, 1987; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 4.005. Record of Notice.

(a) If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication.

(b) For each notice posted under Section 4.003(a)(2) or (b), the person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made.

(c) If notice of an election is given under Section 4.003(a)(3), the authority responsible for giving the notice shall:

(1) retain a copy of the notice and enter on the copy the date or dates the mailing occurred; and

(2) prepare a list of the names and addresses of the persons to whom the notice was mailed.

(d) The authority responsible for giving the election notice shall preserve the records required by this section for the period for preserving the precinct election records.

(e) If other law prescribes the method of preserving the notice of an election, that law supersedes this section.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 2 (S.B. 221), § 7.01, effective August 28, 1989.)

Sec. 4.006. Failure to Give Notice of General Election.

Failure to give notice of a general election does not affect the validity of the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 4.007. Notice to Election Judge.

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority's jurisdiction a written notice of:

(1) the nature and date of the election;

(2) the location of the polling place for the precinct served by the judge;

(3) the hours that the polls will be open;

(4) the judge's duty to hold the election in the precinct specified by the notice; and

(5) the maximum number of clerks that the judge may appoint for the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 4.008. Notice to County Clerk.

(a) Except as provided by Subsection (b), the governing body of a political subdivision, other than a county, that orders an election shall deliver notice of the election to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day.

(b) The governing body of a school district that orders an election under Section 26.08, Tax Code, to ratify an ad valorem tax rate adopted by the governing body under Section 26.05(g) of that code shall deliver notice of the election to the county clerk of each county in which the school district is located not later than the 30th day before election day.

(Enacted by Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.05, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 195 (H.B. 3062), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 79, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 101 provides: "Section 44.004, Education Code, Sections 3.005 and 4.008, Election Code, and Sections 26.01 and 26.05, Tax Code, as amended by this Act, apply only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act [September 1, 2009]."

TITLE 2
VOTER QUALIFICATIONS AND REGISTRATION

CHAPTER 11
QUALIFICATIONS AND REQUIREMENTS FOR VOTING

Section
11.001. Eligibility to Vote.
11.002. Qualified Voter.

Sec. 11.001. Eligibility to Vote.

(a) Except as otherwise provided by law, to be eligible to vote in an election in this state, a person must:

(1) be a qualified voter as defined by Section 11.002 on the day the person offers to vote;

(2) be a resident of the territory covered by the election for the office or measure on which the person desires to vote; and

(3) satisfy all other requirements for voting prescribed by law for the particular election.

(b) For a person who resides on property located in more than one territory described by Subsection (a)(2), the person shall choose in which territory the residence of the person is located.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.06, effective September 1, 2005.)

Sec. 11.002. Qualified Voter.

(a) In this code, "qualified voter" means a person who:

(1) is 18 years of age or older;

(2) is a United States citizen;

(3) has not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) has not been finally convicted of a felony or, if so convicted, has:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote;

(5) is a resident of this state; and

(6) is a registered voter.

(b) For purposes of Subsection (a)(4), a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 23, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 6.01, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 916 (H.B. 74), § 27, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 850 (H.B. 1001), § 1, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 614 (H.B. 417), § 22, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 744 (H.B. 1226), § 1, effective June 17, 2011.)

CHAPTER 13
APPLICATION FOR REGISTRATION; INITIAL REGISTRATION

Subchapter B. Volunteer Deputy Registrars; High School Deputy Registrars

Section
13.031. Appointment; Term.
13.045. Activity on Governmental Premises.
13.046. High School Deputy Registrars.

SUBCHAPTER B
VOLUNTEER DEPUTY REGISTRARS; HIGH SCHOOL DEPUTY REGISTRARS

Sec. 13.031. Appointment; Term.

(a) To encourage voter registration, the registrar shall appoint as deputy registrars persons who volunteer to serve.

(b) In this code, "volunteer deputy registrar" means a deputy registrar appointed under this section.

(c) Volunteer deputy registrars serve for terms expiring December 31 of even-numbered years.

(d) To be eligible for appointment as a volunteer deputy registrar, a person must:

(1) be 18 years of age or older;

(2) not have been finally convicted of a felony or, if so convicted, must have:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote;

(3) meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter; and

(4) not have been finally convicted of an offense under Section 32.51, Penal Code.

(e) A volunteer deputy registrar appointed under this section may not receive another person's registration application until the deputy registrar has completed training developed under Section 13.047. At the time of appointment, the voter registrar shall provide information about the times and places at which training is offered.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2009, 81st Leg., ch. 307 (H.B. 488), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 507 (H.B. 1570), § 2, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1002 (H.B. 2194), § 3, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 5.001, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 507 (H.B. 1570), § 5 provides: "The changes in law made by this Act apply only to a deputy voter registrar appointed on or after the date the secretary of state adopts training standards under Section 13.047, Election Code, as added by this Act."

Sec. 13.045. Activity on Governmental Premises.

Except as otherwise provided by law, the chief executive of a state agency with approval of the agency's governing body, if any, the chief executive of a department of a city with approval of the city's governing body, or a county officer may permit an officer or employee under the chief executive's or officer's supervision who is a volunteer deputy registrar to engage in official registration activities during working hours on the premises under the chief executive's or officer's control.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 13.046. High School Deputy Registrars.

(a) Each principal of a public or private high school or the principal's designee shall serve as a deputy registrar for the county in which the school is located.

(b) In this code, "high school deputy registrar" means a deputy registrar serving under this section.

(c) A high school deputy registrar may distribute registration application forms to and receive registration applications submitted to the deputy in person from students and employees of the school only.

(d) At least twice each school year, a high school deputy registrar shall distribute an officially prescribed registration application form to each student who is or will be 18 years of age or older during that year, subject to rules prescribed by the secretary of state.

(e) Each application form distributed under this section must be accompanied by a notice informing the student or employee that the application may be submitted in person or by mail to the voter registrar of the county in which the applicant resides or in person to a high school deputy registrar or volunteer deputy registrar for delivery to the voter registrar of the county in which the applicant resides.

(f) Except as provided by this subsection, Sections 13.039, 13.041, and 13.042 apply to the submission and delivery of registration applications under this section, and for that purpose, "volunteer deputy registrar" in those sections includes a high school deputy registrar. A high school deputy registrar may review an application for completeness out of the applicant's presence. A deputy may deliver a group of applications to the registrar by mail in an envelope or package, and, for the purpose of determining compliance with the delivery deadline, an application delivered by mail is considered to be delivered at the time of its receipt by the registrar.

(g) A high school deputy registrar commits an offense if the deputy fails to comply with Section 13.042. An offense under this subsection is a Class C misdemeanor unless the deputy's failure to comply is intentional, in which case the offense is a Class A misdemeanor.

(h) The secretary of state shall prescribe any additional procedures necessary to implement this section.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 279 (S.B. 142), § 1, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 797 (H.B. 127), § 4, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 8, effective September 1, 1997.)

TITLE 3
ELECTION OFFICERS AND OBSERVERS

CHAPTER 31
OFFICERS TO ADMINISTER ELECTIONS

Subchapter A. Secretary of State

SUBCHAPTER A
SECRETARY OF STATE

Sec. 31.003. Uniformity.

The secretary of state shall obtain and maintain uniformity in the application, operation, and interpretation of this code and of the election laws outside this code. In performing this duty, the secretary shall prepare detailed and comprehensive written directives and instructions relating to and based on this code and the election laws outside this code. The secretary shall distribute these materials to the appropriate state and local authorities having duties in the administration of these laws.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 31.004. Assistance and Advice.

(a) The secretary of state shall assist and advise all election authorities with regard to the application, operation, and interpretation of this code and of the election laws outside this code.

(b) The secretary shall maintain an informational service for answering inquiries of election authorities relating to the administration of the election laws or the performance of their duties.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

CHAPTER 32
ELECTION JUDGES AND CLERKS

Subchapter A. Appointment of Election Judges

Subchapter C. Eligibility

SUBCHAPTER A
APPOINTMENT OF ELECTION JUDGES

Sec. 32.005. Judges for Elections of Other Political Subdivisions.

(a) The governing body of a political subdivision other than a county shall appoint the election judges for elections ordered by an authority of the political subdivision.

(b) The governing body shall determine whether appointments under Subsection (a) are for a single election or for a definite term not to exceed two years. If appointments are made for a term, the governing body shall set the duration and beginning date of the term and shall fill vacancies in unexpired terms.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

SUBCHAPTER C
ELIGIBILITY

Sec. 32.051. General Eligibility Requirements.

(a) Except as provided by Subsection (b), to be eligible to serve as a judge of an election precinct, a person must:

(1) be a qualified voter of the precinct; and

(2) for a regular county election precinct for which an appointment is made by the commissioners court, satisfy any additional eligibility requirements prescribed by written order of the commissioners court.

(b) If the authority making an appointment of a presiding judge or alternate presiding judge cannot find an eligible qualified voter of the precinct who is willing to accept the appointment, the eligibility requirement for a clerk prescribed by Subsection (c) applies.

(c) Except as provided by Section 32.0511, to be eligible to serve as a clerk of an election precinct, a person must be a qualified voter:

(1) of the county, in a countywide election ordered by the governor or a county authority or in a primary election;

(2) of the part of the county in which the election is held, for an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; or

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(d) [Repealed by Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(2), effective September 1, 2009.]

(e) [Repealed by Acts 2011, 82nd Leg., ch. 1002 (H.B. 2194), § 6, effective September 1, 2011.]

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 11, effective September 1, 1997; am. Acts 2009, 81st Leg., ch. 517 (S.B. 1134), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(2), effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1002 (H.B. 2194), §§ 5, 6, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 32.0511. Special Eligibility Requirements: Student Election Clerks.

(a) In this section:

(1) "Educational institution" means:

(A) a public secondary school; or

(B) an accredited private or parochial secondary school.

(2) "Student" means a person enrolled in an educational institution or a home-schooled student.

(b) A student who is ineligible to serve as a clerk of an election precinct under Section 32.051(c) is eligible to serve as a clerk of an election precinct under this section if the student:

(1) at the time of appointment as an election clerk:

(A) is a student at an educational institution or attends a home school that meets the requirements of Section 25.086(a)(1), Education Code; and

(B) has the consent of:

(i) the principal of the educational institution attended by the student; or

(ii) in the case of a home-schooled student, a parent or legal guardian who is responsible for the student's education; and

(2) at the time of service as an election clerk:

(A) is 16 years of age or older;

(B) is a United States citizen; and

(C) has completed any training course required by the entity holding the election.

(c) A student election clerk serving under this section:

(1) is entitled to compensation under Section 32.091 in the same manner as other election clerks; and

(2) when communicating with a voter who cannot communicate in English, may communicate with the voter in a language the voter and the clerk understand as authorized by Subchapter B, Chapter 61.

(d) Not more than two student election clerks may serve at a polling place, except that not more than four student election clerks may serve at any countywide polling place.

(e) The secretary of state may initiate or assist in the development of a statewide program promoting the use of student election clerks appointed under this section.

(Enacted by Acts 2009, 81st Leg., ch. 517 (S.B. 1134), § 2, effective September 1, 2009.)

Sec. 32.052. Ineligibility of Public Officer.

(a) A person who holds an elective public office is ineligible to serve as an election judge or clerk in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 32.053. Ineligibility of Candidate for Office.

(a) A person who is a candidate in an election for a contested public or party office is ineligible to serve, in an election to be held on the same day as that election, as an election judge or clerk in any precinct in which the office sought is to be voted on.

(b) This section does not apply to:

(1) a county clerk; or

(2) a precinct chair declared elected under Section 171.0221.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2009, 81st Leg., ch. 167 (H.B. 567), § 1, effective September 1, 2009.)

Sec. 32.054. Ineligibility of Employee or Relative of Candidate.

(a) A person is ineligible to serve as an election judge or clerk in an election if the person is em-

ployed by or related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an opposed candidate for a public office or a party office in any precinct in which the office appears on the ballot. For purposes of this subsection, a candidate whose name appears on the ballot is not considered to be opposed by a write-in candidate other than a declared write-in candidate under Chapter 146.

(b) For purposes of this section, a person is employed by a candidate if:

(1) the candidate is an owner or officer of a business entity by which the person is employed;

(2) the candidate is an officer of a governmental department or agency by which the person is employed; or

(3) the person is under the candidate's supervision in public or private employment.

(c) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(d) Notwithstanding Subsection (b), a person employed by a county solely as an early voting clerk appointed under Chapter 83 is not employed by a candidate for purposes of this section.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 561 (H.B. 1345), § 15, effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(27), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 25, effective September 1, 1997; am. Acts 2013, 83rd Leg., ch. 984 (H.B. 2110), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1178 (S.B. 910), § 6, effective September 1, 2013.)

Sec. 32.055. Ineligibility of Campaign Treasurer.

(a) A person is ineligible to serve as an election judge or clerk in an election if the person is the campaign treasurer of a candidate in that election.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 2 (S.B. 221), § 7.03, effective August 28, 1989.)

Sec. 32.0551. Ineligibility of Campaign Manager.

(a) A person is ineligible to serve as an election judge or clerk in an election if the person is a campaign manager of a candidate in that election.

(b) In this section:

(1) "Campaign manager" means:

(A) the person who directs, with or without compensation, the day-to-day operations of a candidate's election campaign; or

(B) each person who directs, with or without compensation, a substantial portion of the day-to-day operations of a candidate's election campaign if no single person performs that function.

(2) "Candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(Enacted by Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 6, effective September 1, 1993.)

Sec. 32.0552. Ineligibility of Person Convicted of Election Offense.

A person is ineligible to serve as an election judge or clerk in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

(Enacted by Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 12, effective September 1, 1997.)

CHAPTER 33
WATCHERS

Subchapter B. Eligibility

Section

SUBCHAPTER B
ELIGIBILITY

Sec. 33.031. General Eligibility Requirements.

(a) To be eligible to serve as a watcher, a person must be a qualified voter:

(1) of the county in which the person is to serve, in an election ordered by the governor or a county authority or in a primary election;

(2) of the part of the county in which the election is held, in an election ordered by the governor or a county authority that does not cover the entire county of the person's residence; and

(3) of the political subdivision, in an election ordered by an authority of a political subdivision other than a county.

(b) [Repealed by Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(3), effective September 1, 2009.]

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(3), effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 33.032. Ineligibility of Candidate for Public Office.

(a) A person is ineligible to serve as a watcher in an election if the person is a candidate for a public office in an election to be held on the same day.

(b) In this section, "candidate" means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining nomination or election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 33.033. Ineligibility of Employee or Relative of Election Officer.

(a) A person is ineligible to serve as a watcher at a particular location if the person is the employer of or is employed by or related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an election judge, an election clerk, an early voting clerk, or a deputy clerk serving at that location.

(b) For purposes of this section, a person is employed by an election officer in the same circumstances that a person is employed by a candidate under Section 32.054(b).

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.40, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 11, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 561 (H.B. 1345), § 16, effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(27), effective September 1, 1995.)

Sec. 33.034. Ineligibility of Public Officer.

(a) A person who holds an elective public office is ineligible to serve as a watcher in an election.

(b) For purposes of this section, a deputy or assistant serving under a public officer does not hold a public office.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 33.035. Ineligibility of Person Convicted of Election Offense.

A person is ineligible to serve as a watcher in an election if the person has been finally convicted of an offense in connection with conduct directly attributable to an election.

(Enacted by Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 18, effective September 1, 1997.)

TITLE 4
TIME AND PLACE OF ELECTIONS

CHAPTER 41
ELECTION DATES AND HOURS FOR VOTING

Subchapter A. Election Dates

Subchapter B. Hours for Voting

SUBCHAPTER A
ELECTION DATES

Sec. 41.001. Uniform Election Dates.

(a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

(1) the second Saturday in May in an odd-numbered year;

(2) the second Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county; or

(3) the first Tuesday after the first Monday in November.

(b) Subsection (a) does not apply to:

(1) a runoff election;

(2) an election to resolve a tie vote;

(3) an election held under an order of a court or other tribunal;

(4) an emergency election ordered under Section 41.0011;

(5) an expedited election to fill a vacancy in the legislature held under Section 203.013;

(6) an election held under a statute that expressly provides that the requirement of Subsection (a) does not apply to the election; or

(7) the initial election of the members of the governing body of a newly incorporated city.

(c) Except for an election under Subsection (a) or Section 41.0011, an election may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election.

(d) Notwithstanding Section 31.093, a county elections administrator is not required to enter into a contract to furnish election services for an election held on the date described by Subsection (a)(2).

(e) [Repealed by Acts 2005, 79th Leg., ch. 471 (H.B. 57), § 9, effective October 1, 2005.]

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1986, 69th Leg., 3rd C.S., ch. 14 (S.B. 4), § 7, effective September 1, 1987; am. Acts 1987, 70th Leg., 2nd C.S., ch. 60 (H.B. 28), § 1, effective October 20, 1987; am. Acts 1991, 72nd Leg., ch. 389 (H.B. 2552), § 2, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 467 (H.B. 565), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1219 (H.B. 298), § 3, effective June 20, 1997; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 20, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(15), effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 340 (S.B. 79), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1315 (H.B. 1549), § 14, effective January 1, 2004; am. Acts 2003, 78th Leg., 3rd C.S., ch. 1 (H.B. 1), § 1, effective January 1, 2005; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), §§ 1, 2, 9, effective October 1, 2005; am. Acts 2011, 82nd Leg., ch. 519 (H.B. 2144), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 4, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 41.0011. Emergency Requiring Early Election.

(a) If the governor determines that an emergency warrants holding a special election before the appropriate uniform election date, the election may be held on an earlier nonuniform date.

(b) An authority of a political subdivision desiring to order a special election as an emergency election under this section must ask the governor for permission to do so. If the governor determines that an emergency exists, the governor shall grant permission.

(c) The proclamation or order for an emergency election under this section must include a statement identifying the nature of the emergency.

(Enacted by Acts 1991, 72nd Leg., ch. 389 (H.B. 2552), § 2, effective September 1, 1991.)

Sec. 41.002. General Election for State and County Officers.

The general election for state and county officers shall be held on the first Tuesday after the first Monday in November in even-numbered years.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 41.003. Authorized November Elections in Even-Numbered Year [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 1219 (H.B. 298), § 7, effective June 20, 1997.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 522 (H.B. 1552), § 3, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 23, effective May 30, 1995.)

Sec. 41.004. Special Election Within Particular Period.

(a) If a law outside this code other than the constitution requires a special election subject to Section 41.001(a) to be held within a particular period after the occurrence of a certain event, the election shall be held on an authorized uniform election date occurring within the period unless no uniform election date within the period affords enough time to hold the election in the manner required by law. In that case, the election shall be held on the first authorized uniform election date occurring after the expiration of the period.

(b) If the constitution requires a special election to be held within a particular period after the occurrence of a certain event, Section 41.001(a) does not apply.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 41.0041. Election on Measure After Particular Period.

(a) If a law outside this code other than the constitution prohibits another election from being held on the same or a similar measure for a specified number of years after an election on a measure, a subsequent election on the measure may be held on the corresponding uniform election date in the appropriate year, regardless of the fact that the date falls a number of days short of the requisite period.

(b) [Repealed by Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(4), effective September 1, 2009.]

(Enacted by Acts 1991, 72nd Leg., ch. 389 (H.B. 2552), § 2, effective September 1, 1991; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 26(4), effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 41.005. General Election of Political Subdivision Other Than County.

(a) This section does not apply to a general election for county officers.

(b) If a law outside this code requires the general election for officers of a political subdivision to be held on a date other than a uniform election date, the governing body of the political subdivision shall set the election date to comply with this subchapter.

(c) A governing body changing an election date under this section shall adjust the terms of office to conform to the new election date.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 389 (H.B. 2552), § 3, effective September 1, 1991.)

Sec. 41.0051. General Election in Certain Coastal Cities [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 656 (H.B. 1945), § 1, effective September 1, 2009.

(Enacted by Acts 1987, 70th Leg., 2nd C.S., ch. 60 (H.B. 28), § 3, effective October 20, 1987.)

Sec. 41.0052. Changing General Election Date.

(a) The governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2012, change the date on which it holds its general election for officers to the November uniform election date.

(b) A governing body changing an election date under this section shall adjust the terms of office to conform to the new election date.

(c) A home-rule city may implement the change authorized by Subsection (a) or provide for the election of all members of the governing body at the same election through the adoption of a resolution. The change contained in the resolution supersedes a city charter provision that requires a different general election date or that requires the terms of members of the governing body to be staggered.

(d) The holdover of a member of a governing body of a city in accordance with Section 17, Article XVI, Texas Constitution, so that a term of office may be conformed to a new election date chosen under this section does not constitute a vacancy for purposes of Section 11(b), Article XI, Texas Constitution.

(e) The governing body of a newly incorporated city may, not later than the second anniversary of the date of incorporation, change the date on which it holds its general election for officers to another authorized uniform election date.

(Enacted by Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 11, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1219 (H.B. 298), § 4, effective June 20, 1997; am. Acts 1999, 76th Leg., ch. 1068 (H.B. 3257), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1074 (H.B. 1777), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1315 (H.B. 1549), § 15, effective January 1, 2004; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), § 3, effective October 1, 2005; am. Acts 2009, 81st Leg., ch. 27 (H.B. 401), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 505 (H.B. 1545), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 519 (H.B. 2144), § 2, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 5, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(15), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 41.0053. Elections on Spring Uniform Date in Certain Political Subdivisions [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 505 (H.B. 1545), § 2, effective June 17, 2011 and by Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 51(1), effective September 1, 2011.

(Enacted by Acts 1997, 75th Leg., ch. 1219 (H.B. 298), § 6(a), effective June 20, 1997.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 41.006. Adjusting Election Schedule.

If under this subchapter an election is held on a date other than a date prescribed by other law, the date for a runoff election, the deadline for filing for candidacy, and the schedule for canvassing election returns, declaring results, or performing any other official act relating to the election shall be adjusted to allow the same interval of time in relation to the date of the election as would be provided by application of the other law.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 41.007. Primary Elections.

(a) The general primary election date is the first Tuesday in March in each even-numbered year.

(b) The runoff primary election date is the fourth Tuesday in May following the general primary election.

(c) The presidential primary election date is the first Tuesday in March in each presidential election year.

(d) No other election may be held on the date of a primary election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1986, 69th Leg., 3rd C.S., ch. 14 (S.B. 4), § 1, effective September 1, 1987; am. Acts 2003, 78th Leg., ch. 292 (H.B. 2496), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1315 (H.B. 1549), § 16, effective January 1, 2004; am. Acts 2003, 78th Leg., 3rd C.S., ch. 1 (H.B. 1), § 2, effective January 11, 2004; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 6, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 41.008. Effect of Holding Election on Improper Date.

An election held on a date not permitted by this subchapter is void.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

SUBCHAPTER B
HOURS FOR VOTING

Sec. 41.031. Voting Hours.

(a) Except as provided by Section 41.033, the polls shall be opened at 7 a.m. for voting and shall be closed at 7 p.m.

(b) Voting may not be conducted after the time for closing the polls except as provided by Section 41.032.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 48, effective September 1, 1997.)

Sec. 41.032. Voting After Polls Close.

(a) A voter who has not voted before the time for closing the polls is entitled to vote after that time if the voter is inside or waiting to enter the polling place at 7 p.m.

(b) If voters are waiting to enter the polling place at closing time, the presiding judge shall direct them to enter the polling place and shall close it to others. However, if that procedure is impracticable, at closing time the presiding judge shall distribute numbered identification cards to the waiting voters and permit entry into the polling place for voting after closing time only by those possessing a card.

(c) The presiding judge shall take the precautions necessary to prevent voting after closing time by persons who are not entitled to do so.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 41.033. Early Closing of Certain Polls.

Notwithstanding Section 41.031(a), an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, may close the polls before 7 p.m. in an election held by the entity if:

(1) the entity has fewer than 50 qualified voters; and

(2) the number of ballots cast in the election equals the number of qualified voters.

(Enacted by Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 49, effective September 1, 1997.)

CHAPTER 43
POLLING PLACES

Subchapter A. Number and Location of Polling Places

Subchapter B. Building for Use As Polling Place

SUBCHAPTER A
NUMBER AND LOCATION OF POLLING PLACES

Sec. 43.004. Designation of Location: Elections of Other Political Subdivisions.

(a) The governing body of each political subdivision authorized to hold elections, other than a county, shall designate the location of the polling place for each of its election precincts.

(b) If a political subdivision holds an election on the November uniform election date and is required to use the regular county election precincts, the political subdivision shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision.

(c) If a political subdivision holds an election jointly with an election described by Section 43.007(a)(1), (2), (3), or (4) and is required to use countywide polling places under Section 43.007, the governing body of the political subdivision may designate as the polling places for any required runoff election only the polling places located in the territory or in and near the territory of the political subdivision where eligible voters reside.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2005, 79th Leg., ch. 1042 (H.B. 1209), § 3, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1261 (H.B. 2926), § 3, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1169 (S.B. 578), § 1, effective September 1, 2013.)

SUBCHAPTER B
BUILDING FOR USE AS POLLING PLACE

Sec. 43.031. Polling Place in Public Building.

(a) In this subchapter, "public building" means a building owned or controlled by the state or a political subdivision.

(b) Each polling place shall be located inside a building.

(c) The building selected for a polling place shall be a public building if practicable. The entity that owns or controls a public building shall make the building available for use as a polling place in any election that covers territory in which the building is located. If more than one authority requests the use of the building for the same day and simultaneous use is impracticable, the entity that owns or controls the building shall determine which authority may use the building.

(d) If a suitable public building is unavailable, the polling place may be located in some other building, including a building on a federal military base or facility with the permission of the post or base commander, and any charge for its use is an election expense. A polling place may not be located in a building under this subsection unless electioneering is permitted on the building's premises outside the prescribed limits within which electioneering is prohibited, except that a polling place may be located in a building at which electioneering is not permitted if it is the only building available for use as a polling place in the election precinct.

(e) A polling place may not be located at the residence of a person who is:

(1) a candidate for an elective office, including an office of a political party; or

(2) related within the third degree by consanguinity or the second degree by affinity, as determined under Chapter 573, Government Code, to a candidate described by Subdivision (1).

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 976 (H.B. 642), § 1, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 1350 (H.B. 332), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1316 (S.B. 1832), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 516 (H.B. 1173), § 1, effective June 20, 2003.)

Sec. 43.032. Building Acquired by County for Polling Place.

(a) If a public building is unavailable for use as the polling place for a county election precinct, the commissioners court may purchase or construct a building in the precinct for that purpose.

(b) The commissioners court may permit a building purchased or constructed under Subsection (a) to be used with or without charge for purposes other than as a polling place.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 976 (H.B. 642), § 1, effective September 1, 1989.)

Sec. 43.033. Consideration for Use of Public Building As Polling Place.

(a) No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of the election is a day on which the building is not normally open for business, a charge may be made only for reimburse-

ment for the actual expenses resulting from use of the building in the election.

(b) The reimbursing authority is entitled to an itemized statement of expenses before making remittance.

(c) A person commits an offense if the person assesses a charge for the use of a public building for a polling place in violation of Subsection (a). An offense under this subsection is a Class C misdemeanor.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 481 (H.B. 1090), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 976 (H.B. 642), § 2, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 12, effective September 1, 1993.)

Sec. 43.034. Accessibility of Polling Place to the Elderly and Persons with Physical Disabilities.

(a) Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. To be considered accessible, a polling place must meet the standards established under Article 9102, Revised Statutes, including the following standards:

(1) the polling place must be on the ground-level floor or be accessible from the ground-level floor by an elevator with doors that provide an opening of at least 36 inches in width;

(2) doors, entrances, and exits used to enter or leave the polling place must have a minimum width of 32 inches;

(3) any curb adjacent to the main entrance to a polling place must have curb cuts or temporary nonslip ramps;

(4) any stairs necessary to enter or leave the polling place must have a handrail on each side of the stairs and a nonslip ramp; and

(5) the polling place may not have a barrier that impedes the path of a person with physical disabilities to the voting station.

(b) The commissioners court shall provide a polling place that complies with Subsection (a) in each county election precinct. The site shall be made available for use as a polling place on every day that an election may be held within the precinct by any authority that holds elections. The commissioners court may make expenditures from either the general fund or the permanent improvement fund to bring an existing county-owned site into compliance with Subsection (a).

(c) The governing body of each political subdivision that holds elections shall cooperate with the commissioners court in its respective county in implementing this section and is subject to the same requirements for compliance as prescribed by Subsection (b). If the authority holding an election rejects a county-designated polling place that is available and chooses to use a different site of its own designation, it shall provide a polling place that complies with Subsection (a) at its own expense. A political party that is holding a primary election may not reject an available county-designated polling place without the prior consent of the secretary of state.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1993, 73rd Leg., ch. 622 (S.B. 270), § 1, effective September 1, 1991; am. Acts 1999, 76th Leg., ch. 809 (H.B. 1545), §§ 1, 2, effective September 1, 1999.)

TITLE 5
ELECTION SUPPLIES

CHAPTER 52
BALLOT FORM, CONTENT, AND PREPARATION

Subchapter C. Form of Ballot

Subchapter D. Order of Parties, Offices, Names, and Propositions on Ballot

SUBCHAPTER C
FORM OF BALLOT

Sec. 52.061. Printing on Ballot.

(a) The ballot shall be printed in black ink on white or light-colored paper, but the ballot may not be the same color as sample ballots.

(b) The type on the ballot may vary in size and style for the office titles, column headings, names of candidates, proposition headings, and propositions,

but the type for each particular category must be uniform.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 23, effective September 1, 1997.)

Sec. 52.062. Numbering of Ballots.

The ballots prepared by each authority responsible for having the official ballot prepared shall be numbered consecutively beginning with the number "1."
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 52.063. Designation of Election and Date.

A designation of the nature of the election and the date of the election shall be printed at the top of the ballot.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 52.064. Designation As Official Ballot.

"OFFICIAL BALLOT" shall be printed in large letters on the ballot immediately below the designation and date of the election.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 52.069. Unexpired Term.

If an office to be filled for an unexpired term is to be voted on at a general or primary election, "unexpired term" shall be printed on the ballot following the office title.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

SUBCHAPTER D
ORDER OF PARTIES, OFFICES, NAMES, AND PROPOSITIONS ON BALLOT

Sec. 52.093. Offices of Political Subdivision Other Than County.

Except as otherwise provided by law, for an election at which offices of a political subdivision other than a county are to be voted on, the authority ordering the election shall determine the order of the offices on the ballot.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 52.094. Names of Candidates.

(a) Except as otherwise provided by law, for an election at which the names of more than one candidate for the same office are to appear on the ballot in an independent column or are to appear on a general or special election ballot that does not contain a party nominee, the order of the candidates' names shall be determined by a drawing.

(b) The authority responsible for having the official ballot prepared for the election shall conduct the drawing.

(c) The authority conducting the drawing shall post in the authority's office a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing, except that for a runoff election or an election held to resolve a tie vote, the notice must remain posted for 24 hours immediately preceding the scheduled time of the drawing.

(d) For an election held at county expense or a city election, on receipt of a candidate's written request accompanied by a stamped, self-addressed envelope, the authority conducting the drawing shall mail written notice of the date, hour, and place of the drawing to the candidate. For an election held by any other political subdivision, the authority conducting the drawing shall mail written notice of the date, hour, and place of the drawing to each candidate, at the address stated on the candidate's application for a place on the ballot, not later than the fourth day before the date of the drawing.

(e) Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 52, effective September 1, 1997.)

Sec. 52.095. Propositions.

Except as otherwise provided by law, the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

TITLE 6
CONDUCT OF ELECTIONS

CHAPTER 61
CONDUCT OF VOTING GENERALLY

Subchapter A. General Provisions

Subchapter B. Interpreter

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 61.003. Electioneering and Loitering Near Polling Place.

(a) A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person:

(1) loiters; or

(2) electioneers for or against any candidate, measure, or political party.

(a-1) The entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises outside of the area described in Subsection (a), but may enact reasonable regulations concerning the time, place, and manner of electioneering.

(b) In this section:

(1) "Electioneering" includes the posting, use, or distribution of political signs or literature.

(2) "Voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

(c) An offense under this section is a Class C misdemeanor.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2013, 83rd Leg., ch. 235 (H.B. 259), §§ 1, 2, effective June 14, 2013.)

Sec. 61.004. Unlawful Operation of Sound Amplification Device or Sound Truck.

(a) A person commits an offense if, during the voting period and within 1,000 feet of a building in which a polling place is located, the person operates a sound amplification device or a vehicle with a loudspeaker while the device or loudspeaker is being used for the purpose of:

(1) making a political speech; or

(2) electioneering for or against any candidate, measure, or political party.

(b) For the purpose of Subsection (a), a person operates a vehicle with a loudspeaker if the person drives the vehicle, uses the loudspeaker, or operates sound equipment in connection with the loudspeaker.

(c) In this section, "voting period" means the period prescribed by Section 61.003(b).

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

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2005, 79th Leg., ch. 497 (H.B. 535), §§ 1, 2, effective September 1, 2005.)

Sec. 61.008. Unlawfully Influencing Voter.

(a) A person commits an offense if the person indicates to a voter in a polling place by word, sign, or gesture how the person desires the voter to vote or not vote.

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

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 61.009. Instructing Voter on Casting Ballot.

On the request of a voter, an election officer shall instruct the voter on the proper procedure for casting a ballot.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

SUBCHAPTER B
INTERPRETER

Sec. 61.032. Interpreter Permitted.

If an election officer who attempts to communicate with a voter does not understand the language used by the voter, the voter may communicate through an interpreter selected by the voter.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

CHAPTER 62
PRELIMINARY ARRANGEMENTS

Section

Sec. 62.001. Officers to Assemble.

(a) On election day, the presiding judge and the election clerks the judge assigns to assist with preparing the polling place shall meet at the polling place in time to prepare it to receive the voters.

(b) If the polling place is left unattended at any time after the preparations for voting begin, the presiding judge shall take appropriate steps to provide for the security of the polling place. This subsection does not affect the security requirements for a polling place after the polls open.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2001, 77th Leg., ch. 802 (H.B. 563), § 2, effective September 1, 2001.)

Sec. 62.003. Election Officers: Oath and Identification.

(a) The presiding judge and the election clerks present at the polling place before the polls open shall repeat the following oath aloud:

"I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election."

(b) A clerk who arrives after the oath is made shall repeat the oath aloud before performing any duties as an election officer.

(c) Following administration of the oath, each election officer shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the officer during the officer's hours of service at the polling place.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2013, 83rd Leg., ch. 984 (H.B. 2110), §§ 2, 3, effective September 1, 2013.)

Sec. 62.010. Distance Marker.

(a) An election officer shall place one or more distance markers at the outer limits of the area within which electioneering is prohibited.

(b) A distance marker must contain the following language printed in large letters: "Distance Marker. No electioneering or loitering between this point and the entrance to the polling place."

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 62.011. Instruction Poster.

(a) An election officer shall post an instruction poster:

(1) in each voting station; and

(2) in one or more other locations in the polling place where it can be read by persons waiting to vote.

(b) The secretary of state shall prescribe the form and content of the instruction poster. If it is not practical to fit all of the information required by this section on a single poster, the secretary of state may provide for the use of two or more posters to convey the information.

(c) The poster must include instructions applicable to the election on:

(1) marking and depositing the ballot;

(2) voting for a write-in candidate;

(3) casting a straight-party vote;

(4) casting a provisional ballot;

(5) until the expiration of Section 13.122(d), voting for the first time by a person who registered by mail; and

(6) securing an additional ballot if the voter's original ballot is spoiled.

(d) The poster must also include the following information:

(1) the date of the election and the hours during which the polling place is open;

(2) general information on voting rights under state and federal laws, including information on the right of an individual to cast a provisional ballot and the individuals to contact if a person believes these rights have been violated; and

(3) general information on state and federal laws that prohibit acts of fraud or misrepresentation.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 1315 (H.B. 1549), § 23, effective January 1, 2004.)

Sec. 62.0111. Notice of Prohibition of Certain Devices.

(a) At the discretion of the presiding judge, notice of the prohibition of the use of certain devices under Section 61.014 may be posted at one or more locations in the polling place where it can be read by persons waiting to vote.

(b) The secretary of state shall prescribe the wording of a notice posted under this section.
(Enacted by Acts 2007, 80th Leg., ch. 697 (H.B. 1921), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.002(3), effective September 1, 2009.)

Sec. 62.0112. Notice of Voter Complaint Information.

(a) At one or more locations in the polling place easily visible to voters, the presiding judge shall post notice in a form prescribed by the secretary of state that informs voters of who to call or write to if a voter has a complaint about the conduct of the election.

(b) The title of the notice must read "Voter Complaint Information" and must be printed in at least 100-point Times New Roman font. The notice must:

(1) include the telephone number for the voting rights hotline established by the secretary of state under Section 31.0055;

(2) include any available telephone number dedicated to reporting complaints about the local election official that is administering the election; and

(3) include mailing addresses or Internet websites, as available, to which voters may direct complaints to the federal, state, or local governments about the conduct of elections.

(Enacted by Acts 2009, 81st Leg., ch. 358 (H.B. 1256), § 1, effective September 1, 2009.)

Sec. 62.0115. Public Notice of Voters' Rights.

(a) The secretary of state shall adopt rules providing for publicizing voters' rights as prescribed by this section. The rules must require that a notice of those rights be publicized:

(1) by being posted by an election officer in a prominent location at each polling place;

(2) on the Internet website of the secretary of state;

(3) through material published by the secretary of state; or

(4) in another manner designed to give voters notice of their rights.

(b) Except as revised by the secretary of state under Subsection (d), the notice must state that a voter has the right to:

(1) vote a ballot and view written instructions on how to cast a ballot;

(2) vote in secret and free from intimidation;

(3) receive up to two additional ballots if the voter mismarks, damages, or otherwise spoils a ballot;

(4) request instructions on how to cast a ballot, but not to receive suggestions on how to vote;

(5) bring an interpreter to translate the ballot and any instructions from election officials;

(6) receive assistance in casting the ballot if the voter:

(A) has a physical disability that renders the voter unable to write or see; or

(B) cannot read the language in which the ballot is written;

(7) cast a ballot on executing an affidavit as provided by law, if the voter's eligibility to vote is questioned;

(8) report an existing or potential abuse of voting rights to the secretary of state or the local election official;

(9) except as provided by Section 85.066(b), Election Code, vote at any early voting location in the county in which the voter resides in an election held at county expense, a primary election, or a special election ordered by the governor; and

(10) file an administrative complaint with the secretary of state concerning a violation of federal or state voting procedures.

(c) The notice must also state:

(1) the information relating to the voting rights hotline required under Section 31.0055; and

(2) any other information that the secretary of state considers important for a voter to know.

(d) The secretary of state shall prescribe the form and content of the notice in accordance with this section. The secretary of state shall revise the content of the notice as necessary to ensure that the notice accurately reflects the law in effect at the time the notice is publicized.
(Enacted by Acts 2005, 79th Leg., ch. 510 (H.B. 719), § 2, effective September 1, 2005.)

Sec. 62.012. Posting Sample Ballot.

An election officer shall post a sample ballot in one or more locations in the polling place where it can be read by persons waiting to vote.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 1315 (H.B. 1549), § 24, effective January 1, 2004.)

CHAPTER 66
DISPOSITION OF RECORDS AND SUPPLIES AFTER ELECTION

Subchapter A. General Provisions

Section

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 66.001. General Custodian of Election Records.

The general custodian of election records is:

(1) the county clerk of each county wholly or partly situated in the territory covered by the election, for an election ordered by the governor or by a county authority or for a primary election;

(2) the city secretary, for an election ordered by a city authority; and

(3) the secretary of the political subdivision's governing body or, if the governing body has no secretary, the governing body's presiding officer, for an election ordered by an authority of a political subdivision other than a county or city.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

CHAPTER 67
CANVASSING ELECTIONS

Section

Sec. 67.001. Applicability of Chapter.

This chapter applies to each general or special election conducted in this state.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 67.003. Time for Local Canvass.

(a) Except as provided by Subsection (b), each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer not earlier than the eighth day or later than the 11th day after election day.

(a) Except as provided by Subsection (b) or (c), each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer not earlier than the eighth day or later than the 11th day after election day.

(1) the third day after election day;

(2) the date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

(3) the date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

(c) In an election described by Section 65.051(a-1), the time for the local canvass may be set not later than the 14th day after election day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 22, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 31, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1315 (H.B. 1549), § 42, effective January 1, 2004; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 17, effective September 1, 2003; am. Acts 2003, 78th Leg., 3rd C.S., ch. 1 (H.B. 1), § 3, effective January 11, 2004; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), § 7, effective October 1, 2005; am. Acts 2013, 83rd Leg., ch. 891 (H.B. 985), § 3, effective September 1, 2013.)

Sec. 67.004. Procedure for Local Canvass.

(a) At the time set for convening the canvassing authority for the local canvass, the presiding officer of the canvassing authority shall deliver the sealed precinct returns to the authority. The authority shall open the returns for each precinct and canvass them as provided by this section. Two members of the authority constitute a quorum for purposes of canvassing an election.

(b) The canvassing authority shall prepare a tabulation stating for each candidate and for and against each measure:

(1) the total number of votes received in each precinct; and

(2) the sum of the precinct totals tabulated under Subdivision (1).

(b-1) The tabulation in Subsection (b) must also include for each precinct the total number of voters who cast a ballot for a candidate or for or against a measure in the election. The secretary of state shall prescribe any procedures necessary to implement this subsection.

(c) The canvassing authority may prepare the tabulation as a separate document or may enter the tabulation directly in the local election register maintained for the authority. The authority shall attach or include as part of the tabulation the report of early voting votes by precinct received under Section 87.1231.

(d) The canvassing authority may compare the precinct returns with the corresponding tally list. If a discrepancy is discovered between the vote totals shown on the returns and those shown on the tally list for a precinct, the presiding judge of the precinct

shall examine the returns and tally list and make the necessary corrections on the returns.

(e) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the tabulation to the custodian of the local election register unless it is entered directly in the election register. The custodian shall preserve the tabulation for the period for preserving the precinct election records.

(f) On completion of the canvass, the presiding officer of the canvassing authority shall deliver the precinct returns, tally lists, and early voting precinct report used in the canvass to the general custodian of election records. The custodian shall preserve them for the period for preserving the precinct election records.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 114 (S.B. 1050), § 10, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), §§ 1.01, 2.51, effective September 1, 1991; am. Acts 1991, 71st Leg., ch. 554 (S.B. 1186), § 22, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 23, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 32, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.14, effective September 1, 2005.)

Sec. 67.005. Determining Official Result of Election Not Canvassed at State Level.

(a) Except as provided by Subsection (b), the official result of an election that is not canvassed at the state level is determined from the canvass of the precinct returns conducted by the local canvassing authority.

(b) In an election in which there is more than one local canvassing authority but no canvass at the state level, the official result is determined in the manner prescribed by the law providing for the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

TITLE 7
EARLY VOTING

SUBTITLE A
EARLY VOTING

CHAPTER 83
OFFICER CONDUCTING EARLY VOTING

Subchapter A. Early Voting Clerk

Subchapter C. Compensation

SUBCHAPTER A
EARLY VOTING CLERK

Sec. 83.001. Early Voting Clerk Generally.

(a) The early voting clerk shall conduct the early voting in each election.

(b) The clerk is an officer of the election in which the clerk serves.

(c) The clerk has the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting, except as otherwise provided by this title.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.06, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 83.006. Clerk for Elections of Other Political Subdivisions.

(a) In an election ordered by an authority of a political subdivision other than a county or city, the authority ordering the election shall appoint the early voting clerk.

(b) To be eligible for appointment as early voting clerk under this section, a person must meet the requirements for eligibility for service as a presiding election judge, except that:

(1) an appointee must be a qualified voter of the political subdivision and is not required to be a qualified voter of any other particular territory;

(2) in an election in which an officer of the political subdivision is a candidate, an appointee's status as an employee of the political subdivision

does not make the appointee ineligible for appointment as the clerk; and

(3) an appointee who is a permanent employee of the political subdivision and a qualified voter of any territory is not required to be a qualified voter of the political subdivision.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.06, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 18, effective September 1, 2003.)

Sec. 83.009. Employee of Political Subdivision Serving As Clerk.

An employee of a political subdivision may serve as early voting clerk in an election affecting the political subdivision if the political subdivision's governing body approves the appointment.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.06, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 83.010. Public Notice of Clerk's Mailing Address.

An election order and the election notice must state the early voting clerk's official mailing address, except for an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.06, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 83.011. Office Hours on Election Day.

The early voting clerk's office shall remain open for early voting activities during the hours the polls are required to be open for voting on election day.

(Enacted by Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 1.03, effective September 1, 1991.)

Sec. 83.012. Student Early Voting Clerks.

(a) The early voting clerk may appoint student early voting clerks as necessary to assist the early voting clerk.

(b) A person is eligible to serve as a student early voting clerk under this section if the person is ineligible to serve as a clerk of an election precinct under Section 32.051(c) but meets the eligibility requirements to be a student election clerk under Section 32.0511.

(c) A student early voting clerk serving under this section:

(1) is entitled to compensation under Section 83.052 in the same manner as other early voting clerks; and

(2) when communicating with a voter who cannot communicate in English, may communicate with the voter in a language the voter and the clerk understand as authorized by Subchapter B, Chapter 61.

(d) Not more than four student early voting clerks may serve at an early voting polling place.

(e) The secretary of state may initiate or assist in the development of a statewide program promoting the use of student early voting clerks appointed under this section.

(Enacted by Acts 2013, 83rd Leg., ch. 542 (S.B. 553), § 3, effective June 14, 2013.)

SUBCHAPTER C
COMPENSATION

Sec. 83.053. Service Without Compensation by Public Employee

(a) An employee of the authority ordering an election who is appointed as early voting clerk or deputy early voting clerk may be appointed to serve without additional compensation.

(b) An employee of a political subdivision who is appointed as early voting clerk or deputy early voting clerk for an election affecting the political subdivision may be appointed to serve without additional compensation if the political subdivision's governing body approves appointment on that basis.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.06, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

CHAPTER 85
CONDUCT OF VOTING BY PERSONAL APPEARANCE

Subchapter A. Time and Place for Voting; Election Officers

SUBCHAPTER A
TIME AND PLACE FOR VOTING; ELECTION OFFICERS

Sec. 85.001. Early Voting Period.

(a) The period for early voting by personal appearance begins on the 17th day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

(b) For a special runoff election for the office of state senator or state representative or for a runoff primary election, the period begins on the 10th day before election day.

(c) If the date prescribed by Subsection (a) or (b) for beginning the period is a Saturday, Sunday, or legal state holiday, the early voting period begins on the next regular business day.

(d) If because of the date for which an election is ordered it is not possible to begin early voting by personal appearance on the prescribed date, the early voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 115 (S.B. 292), § 1, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 22, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), § 8, effective October 1, 2005; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 8, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 85.002. Main Early Voting Polling Place.

(a) Early voting by personal appearance for each election shall be conducted at the main early voting polling place.

(b) In an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005, the main early voting polling place shall be located in any room selected by the early voting clerk in the building that houses the main business office of the county clerk or city secretary, as applicable. However, if the commissioners court or city governing body determines that locating the polling place in that building is impracticable, the commissioners court or city governing body may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(c) In an election in which a county clerk is the early voting clerk under Section 83.003 or 83.004, the authority authorized to appoint the clerk shall designate the location of the main early voting polling place. The location must be in the territory covered by the election or in any room selected by the clerk in the building that houses the county clerk's main business office, whether or not the office is located in the territory covered by the election. However, if the commissioners court determines that locating the polling place in that building is impracticable, the commissioners court may designate a different location in the city in which the business office is located that is as near as practicable to the business office.

(d) In an election in which a person other than a county clerk or city secretary is early voting clerk, the authority appointing the clerk shall designate the location of the main early voting polling place. The location must be in the territory covered by the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 85.003. Voters Served by Main Polling Place.

Any person entitled to vote an early voting ballot by personal appearance may do so at the main early voting polling place.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 85.004. Public Notice of Main Polling Place Location.

The election order and the election notice must state the location of the main early voting polling place.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 9, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), § 15, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 85.005. Regular Days and Hours for Voting.

(a) Except as provided by Subsection (c), in an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005, early voting by personal appearance at the main early voting polling place shall be conducted on the weekdays of the early voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business.

(b) In an election to which Subsection (a) does not apply, early voting by personal appearance at the main early voting polling place shall be conducted at least eight hours each weekday of the early voting period that is not a legal state holiday unless the territory covered by the election has fewer than 1,000 registered voters. In that case, the voting shall be conducted at least three hours each day. The authority ordering the election, or the county clerk if that person is the early voting clerk, shall determine which hours the voting is to be conducted.

(c) In a county with a population of 100,000 or more, the voting in a primary election or the general election for state and county officers shall be conducted at the main early voting polling place for at least 12 hours on each weekday of the last week of the early voting period, and the voting in a special election ordered by the governor shall be conducted at the main early voting polling place for at least 12 hours on each of the last two days of the early voting period. Voting shall be conducted in accordance with this subsection in those elections in a county with a population under 100,000 on receipt by the early voting clerk of a written request for the extended hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.067.

(d) In an election ordered by a city, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours:

(1) on one weekday, if the early voting period consists of less than six weekdays; or

(2) on two weekdays, if the early voting period consists of six or more weekdays.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 1142 (S.B. 1484), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 1.07, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1.17, effective September 1, 2005.)

Sec. 85.006. Voting on Saturday or Sunday.

(a) Except as provided by Subsection (b), the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted on one or more Saturdays or Sundays during the early voting period.

(b) In an election in which a county clerk or city secretary is the early voting clerk under Section 83.002 or 83.005, only the early voting clerk may order voting on a Saturday or Sunday. The clerk must do so by written order.

(c) The authority ordering voting on a Saturday or Sunday shall determine the hours during which voting is to be conducted.

(d) The authority authorized to order early voting on a Saturday or Sunday under Subsection (a) or (b) shall order the voting under the applicable subsection on receipt of a written request submitted by at least 15 registered voters of the territory covered by the election. The request must be submitted in time to enable compliance with Section 85.007. The authority is not required to order the voting on a particular date specified by the request but shall order the voting on at least one Saturday if a Saturday is requested and on at least one Sunday if a Sunday is requested.

(e) In a primary election or the general election for state and county officers in a county with a population of 100,000 or more, the early voting clerk shall order personal appearance voting at the main early voting polling place to be conducted for at least 12 hours on the last Saturday and for at least five

hours on the last Sunday of the early voting period. The early voting clerk shall order voting to be conducted at those times in those elections in a county with a population under 100,000 on receipt of a written request for those hours submitted by at least 15 registered voters of the county. The request must be submitted in time to enable compliance with Section 85.007. This subsection supersedes any provision of this subchapter to the extent of any conflict.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 25, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1142 (S.B. 1484), § 2, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 1.08, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 85.007. Public Notice of Time for Voting.

(a) The election order and the election notice must state:

(1) the date that early voting will begin if under Section 85.001(d) the early voting period is to begin later than the prescribed date;

(2) the regular dates and hours that voting will be conducted under Section 85.005(b); and

(3) the dates and hours that voting on Saturday or Sunday is ordered to be conducted under Section 85.006(a).

(b) The early voting clerk shall post notice for each election stating the dates and hours that voting on a Saturday or Sunday is ordered to be conducted under Section 85.006(b).

(c) Notice under Subsection (b) shall be posted continuously for at least 72 hours immediately preceding the first hour that the voting to which the notice pertains will be conducted. The notice shall be posted on the bulletin board used for posting notice of meetings of the commissioners court if the early voting clerk is the county clerk, or of the city governing body if the early voting clerk is the city secretary.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 85.008. Days and Hours for Voting: Election in Certain Cities.

(a) This section applies only to a city with a population of more than 450,000 in which all members of the governing body are elected on an at-large basis.

(b) Notwithstanding and in addition to other applicable provisions of this code, in an election in which the city secretary is the early voting clerk under Section 83.005, early voting by personal appearance shall be conducted on the corresponding days and for the same number of hours that the voting is required to be conducted in the general election for state and county officers in the county in which a majority of the population of the city is located.

(Enacted by Acts 1997, 75th Leg., ch. 172 (H.B. 324), § 1, effective September 1, 1997.)

Sec. 85.009. Election Officers for General Election for State and County Officers.

(a) The county clerk shall select election officers for the main early voting polling place and any branch polling place from a list provided under Subsection (b), in a manner that provides equal representation to the extent possible for each political party holding a primary election in the county.

(b) Before July of each year, the county chair of each political party holding a primary election in the county shall submit in writing to the county clerk a list of names of persons in order of preference for each early voting polling place who are eligible for selection as an election officer. The county chair may supplement the list of names of persons until the 30th day before early voting begins in case an appointed election officer becomes unable to serve. The county clerk shall appoint the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the highest number of votes in the county as the presiding election officer of that polling place and the first person meeting the applicable eligibility requirements from the list submitted in compliance with this subsection by the party with the second highest number of votes in the county as the alternate presiding election officer of that polling place. The county clerk shall appoint additional election officers for each polling place in the manner described by Subsection (a). The county clerk may reject the list if the persons whose names are submitted on the list are determined not to meet the applicable eligibility requirements.

(c) The county clerk, after making a reasonable effort to consult with the party chair of the appropriate political party or parties, may select election officers for each early voting polling place in which a list is not submitted in a manner that attempts to ensure equal representation to the extent possible for the parties holding a primary election in the county.

(Enacted by Acts 2007, 80th Leg., ch. 558 (S.B. 1434), § 2, effective September 1, 2007.)

Sec. 85.010. Early Voting Polling Place for Certain Elections Held by Political Subdivisions.

(a) This section applies to an election held by a political subdivision, other than a county, on the November uniform election date in which the political subdivision:

(1) is not holding a joint election with a county in accordance with Chapter 271; and

(2) has not executed a contract with a county elections officer under which the political subdivision and the county share early voting polling places for the election.

(b) A political subdivision that holds an election described by Subsection (a) shall designate as an early voting polling place for the election any early voting polling place, other than a polling place established under Section 85.062(e), established by the county and located in the political subdivision.

(c) A shared polling place established under Subsection (b) that is designated as a main early voting polling place by any political subdivision must be open for voting for all political subdivisions the polling place serves for at least the days and hours required of a main early voting polling place under Section 85.002 for the political subdivision making the designation.

(Enacted by Acts 2013, 83rd Leg., ch. 636 (H.B. 506), § 1, effective September 1, 2013.)

SUBCHAPTER B
POLLING PLACE PROCEDURE

Sec. 85.031. Accepting Voter.

(a) For each person entitled to vote an early voting ballot by personal appearance, the early voting clerk shall follow the procedure for accepting a regular voter on election day, with the modifications necessary for the conduct of early voting.

(b) On accepting a voter, the clerk shall indicate beside the voter's name on the list of registered voters that the voter is accepted to vote by personal appearance unless the form of the list makes it impracticable to do so, and the clerk shall enter the voter's name on the poll list.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 34, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1381 (H.B. 1483), § 9, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1002 (H.B. 2194), § 11, effective January 1, 2012.)

Sec. 85.0311. Early Voting Clerk to Sign Ballots.

(a) The early voting clerk's initials shall be placed on the back of each ballot to be used at the polling place.

(b) The early voting clerk shall enter the initials on each ballot or a deputy early voting clerk shall stamp a facsimile of the initials on each ballot.

(Enacted by Acts 1997, 75th Leg., ch. 1381 (H.B. 1483), § 10, effective September 1, 1997.)

Sec. 85.032. Security of Early Voting Ballot Box.

(a) The procedure for rotating two ballot boxes applicable to a precinct polling place does not apply to an early voting polling place. Once locked for use in an election, the early voting ballot box may not be unlocked except as provided by this subtitle.

(b) The ballot box in which voters deposit their marked early voting ballots must have two locks, each with a different key, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election. The procedures prescribed by Sections 127.064, 127.065, 127.066, and 127.068 governing the use of sealed ballot boxes in electronic voting system elections apply to the use of sealed ballot boxes under this title to the extent those procedures can be made applicable. The secretary of state shall prescribe any procedures necessary to implement the use of sealed ballot boxes in early voting.

(c) During the period for early voting by personal appearance, the early voting clerk shall keep the key to one of the locks to the early voting ballot box, and the custodian of keys to ballot boxes for preserving voted ballots after the election shall keep the key to the second lock.

(d) Each custodian shall retain possession of the key entrusted to the custodian until it is delivered to the presiding judge of the central counting station.

(e) A sealed case may be used for transferring voted early voting ballots in accordance with procedures approved by the secretary of state.

(f) The secretary of state shall prescribe procedures providing for the security of the voted early voting ballots from the last day of voting by personal appearance at a polling place until the day the ballots are counted.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 562 (H.B. 1677), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 74, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1381 (H.B. 1483), § 11, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), § 16, effective September 1, 2011.)

Sec. 85.033. Security of Voting Machine.

At the close of early voting each day, the early voting clerk shall secure each voting machine used for early voting in the manner prescribed by the secretary of state so that its unauthorized operation is prevented. The clerk shall unsecure the machine before the beginning of early voting the following day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 85.034. Voter Unable to Enter Polling Place.

Early voting by personal appearance by a voter who is voting outside the early voting polling place shall be conducted pursuant to Section 64.009.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 2.01, effective January 1, 2006; am. Acts 2013, 83rd Leg., ch. 1178 (S.B. 910), § 10, effective September 1, 2013.)

Sec. 85.035. Assisting Voter.

A person voting an early voting ballot by personal appearance who is assisted in preparing the ballot by election officers under Subchapter B, Chapter 64, may be assisted by a single officer.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991.)

Sec. 85.036. Electioneering.

(a) During the time an early voting polling place is open for the conduct of early voting, a person may not electioneer for or against any candidate, measure, or political party in or within 100 feet of an outside door through which a voter may enter the building or structure in which the early voting polling place is located.

(b) The entity that owns or controls a public building being used as an early voting polling place may not, at any time during the early voting period, prohibit electioneering on the building's premises outside of the area described in Subsection (a), but may enact reasonable regulations concerning the time, place, and manner of electioneering.

(c) During the early voting period, the early voting clerk shall keep continuously posted:

(1) at the entrance to the room or area, as applicable, in which the early voting polling place is located, a sign on which is printed in large letters "Early Voting Polling Place"; and

(2) at the outer limits of the area within which electioneering is prohibited, a sign on which is printed in large letters "Distance Marker. No electioneering between this point and the entrance to the early voting polling place."

(d) A person commits an offense if the person electioneers in violation of Subsection (a).

(e) An offense under this section is a Class C misdemeanor.

(f) In this section:

(1) "Early voting period" means the period prescribed by Section 85.001.

(2) "Electioneering" includes the posting, use, or distribution of political signs or literature.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 1.09, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 498 (H.B. 162), effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 639 (H.B. 2093), §§ 1, 2, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 235 (H.B. 259), §§ 3, 4, effective June 14, 2013.)

Sec. 85.037. Bystanders Excluded; Unlawful Presence of Candidate.

Section 61.001 applies to an early voting polling place except that the period for which the conduct is proscribed is during the time the polling place is open for the conduct of early voting.

(Enacted by Acts 1997, 75th Leg., ch. 1350 (H.B. 332), § 4, effective September 1, 1997.)

TITLE 9
CANDIDATES

CHAPTER 141
CANDIDACY FOR PUBLIC OFFICE GENERALLY

Subchapter A. Eligibility for Public Office

Subchapter B. Application for Place on Ballot

SUBCHAPTER A
ELIGIBILITY FOR PUBLIC OFFICE

Sec. 141.001. Eligibility Requirements for Public Office.

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made; and

(6) satisfy any other eligibility requirements prescribed by law for the office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2007, 80th Leg., ch. 614 (H.B. 417), § 28, effective September 1, 2007.)

SUBCHAPTER B
APPLICATION FOR PLACE ON BALLOT

Sec. 141.031. General Requirements for Application.

(a) A candidate's application for a place on the ballot that is required by this code must:

(1) be in writing;

(2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;

(3) be timely filed with the appropriate authority; and

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

(C) the office sought, including any place number or other distinguishing number;

(D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;

(E) a statement that the candidate is a United States citizen;

(F) a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:

(i) totally mentally incapacitated; or

(ii) partially mentally incapacitated without the right to vote;

(G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;

(H) the candidate's date of birth;

(I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the constitution and laws of the United States and of the State of Texas"; and

(L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code.

(b) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(a) shall include in the application a statement that the person's mental capacity has been completely restored by a final judgment of a court.

(c) Instead of the statement required by Subsection (a)(4)(F), a candidate eligible for office because of Section 1.020(b) shall include in the application a statement that the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored, as applicable, by a final judgment of a court.

(d) The secretary of state may prescribe a different form for an application for a place on the ballot for each of the following:

(1) an office of the federal government;

(2) an office of the state government; or

(3) an office of a political party.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 427 (S.B. 933), § 4, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3A.03, effective August 30, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), effective September 1, 1995; Acts 2007, 80th Leg., ch. 614 (H.B. 417), § 29, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1178 (S.B. 910), § 12, effective September 1, 2013.)

Sec. 141.035. Application As Public Information.

An application for a place on the ballot, including an accompanying petition, is public information immediately on its filing.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 141.037. Form of Name Certified for Placement on Ballot.

An authority responsible for certifying the names of candidates for placement on the ballot shall certify each name in the form indicated on the candidate's application for a place on the ballot, subject to Subchapter B, Chapter 52.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

CHAPTER 144
CANDIDATE FOR OFFICE OF POLITICAL SUBDIVISION OTHER THAN COUNTY OR CITY

Section

Sec. 144.001. Applicability of Chapter.

This chapter applies to a candidate for an office of a political subdivision other than a city or county.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 144.002. Independent Candidacy Required.

A candidate's name may appear on the ballot only as an independent.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 144.003. Application Required.

(a) Except as otherwise provided by law, to be entitled to a place on the ballot, a candidate must make an application for a place on the ballot.

(b) If a law outside this code purports to prescribe the exclusive requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(a)(4)(L) also applies to the application. The other provisions of Section 141.031 do not apply.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 427 (S.B. 933), § 6, effective September 1, 1987; am. Acts 2007, 80th Leg., ch. 614 (H.B. 417), § 31, effective September 1, 2007.)

Sec. 144.004. Authority with Whom Application Filed.

Except as otherwise provided by law, an application for a place on the ballot must be filed with the

secretary of the political subdivision's governing body or, if the governing body has no secretary, with the governing body's presiding officer.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 144.005. Filing Deadline.

(a) Except as provided by Subsection (d), an application for a place on the ballot must be filed not later than 5 p.m of the 62nd day before election day. Notwithstanding any other law outside this code, an application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) Except as otherwise provided by law, an application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) The governing body of a political subdivision for which a deadline for filing for candidacy is prescribed by a law outside this code shall take appropriate action to comply with Subsections (a) and (d) and to adjust any affected date, deadline, or procedure to allow the same interval of time in relation to the filing deadline as would be provided by application of the other law. The secretary of state shall prescribe any rules necessary to facilitate the implementation of this subsection.

(d) For an election to be held on:

(1) the date of the general election for state and county officers, the day of the filing deadline is the 78th day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the day of the filing deadline is the 71st day before election day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2003, 78th Leg., ch. 925 (S.B. 1215), § 4, effective November 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 5, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 18, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1178 (S.B. 910), § 13, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 144.006. Filing Deadline for Declared Write-In Candidate.

(a) Except as otherwise provided by law, a declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed in an election in which:

(1) the filing deadline for an application for a place on the ballot is the 62nd day before election day; and

(2) write-in votes may be counted only for names appearing on a list of declared write-in candidates.

(b) For an election to be held on:

(1) the date of the general election for state and county officers, the day of the filing deadline is the 78th day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the day of the filing deadline is the 71st day before election day.

(Enacted by Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 35, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 6, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 19, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

CHAPTER 145
WITHDRAWAL, DEATH AND INELIGIBILITY OF CANDIDATE

Subchapter D. Candidate in Election Other Than General Election for State and County Officers

Section

SUBCHAPTER D
CANDIDATE IN ELECTION OTHER THAN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 145.092. Deadline for Withdrawal.

(a) Except as otherwise provided by this section, a candidate may not withdraw from an election after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot.

(b) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 62nd day before election day may not withdraw from the election after 5 p.m. of the 53rd day before election day.

(c) [Repealed by Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), § 44, effective September 1, 2011.]

(d) A candidate in a runoff election may not withdraw from the election after 5 p.m. of the third day after the date of the main election.

(e) Section 1.006 does not apply to this section.

(f) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 78th day before election

day may not withdraw from the election after 5 p.m. of the 71st day before election day.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 40, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.59, effective September 1, 1991; am. Acts 1991 72nd Leg., ch. 554 (S.B. 1186), § 29, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 925 (S.B. 1215), § 5, effective November 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 12, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), §§ 31, 44, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 22, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 589 (S.B. 904), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 145.094. Withdrawn, Deceased, or Ineligible Candidate's Name Omitted from Ballot.

(a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible before 5 p.m. of the second day before the beginning of early voting by personal appearance, in an election subject to Section 145.092(a);

(3) withdraws or is declared ineligible before 5 p.m. of the 53rd day before election day, in an election subject to Section 145.092(b); or

(4) withdraws or is declared ineligible before 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) This section does not apply to a runoff election.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 41, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.60, effective September 1, 1991; am. Acts 1991 72nd Leg., ch. 554 (S.B. 1186), § 31, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 925 (S.B. 1215), § 6, effective November 1, 2003; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 13, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1164 (H.B. 2817), § 32, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 23, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

CHAPTER 146
WRITE-IN CANDIDATE

Subchapter B. Write-In Candidate in General Election for State and County Officers

Section

SUBCHAPTER B
WRITE-IN CANDIDATE IN GENERAL ELECTION FOR STATE AND COUNTY OFFICERS

Sec. 146.021. Applicability of Subchapter.

This subchapter applies to a write-in candidate for an office that is to be voted on at the general election for state and county officers.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 146.022. Candidate's Name Required to Appear on List.

A write-in vote may not be counted unless the name written in appears on the list of write-in candidates required by Section 146.031.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 146.023. Declaration of Write-In Candidacy Required.

(a) To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

(b) A declaration of write-in candidacy must, in addition to satisfying the requirements prescribed by Section 141.031 for an application for a place on the ballot, be accompanied by the appropriate filing fee or, instead of the filing fee, a petition that

satisfies the requirements prescribed by Subchapter C, Chapter 141.

(c) A candidate may not file a declaration of write-in candidacy for more than one office. If a person files more than one declaration of write-in candidacy in violation of this subsection, each declaration filed subsequent to the first one filed is invalid.

(d) A declaration of write-in candidacy is public information immediately on its filing.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 170 (H.B. 509), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 58, effective September 1, 1993.)

Sec. 146.0231. Filing Fee.

(a) The filing fee for a write-in candidate is the amount prescribed by Section 172.024 for a candidate for nomination for the same office in a general primary election.

(b) A filing fee received by the secretary of state shall be deposited in the state treasury to the credit of the general revenue fund.

(c) A filing fee received by the county judge shall be deposited in the county treasury to the credit of the county general fund.

(Enacted by Acts 1991, 72nd Leg., ch. 170 (H.B. 509), § 1, effective September 1, 1991.)

Sec. 146.0232. Number of Petition Signatures Required.

The minimum number of signatures that must appear on the petition authorized by Section 146.023(b) is the number prescribed by Section 172.025 to appear on a petition of a candidate for nomination for the same office in a general primary election.

(Enacted by Acts 1991, 72nd Leg., ch. 170 (H.B. 509), § 1, effective September 1, 1991.)

Sec. 146.024. Authority with Whom Declaration Filed.

A declaration of write-in candidacy must be filed with:

(1) the secretary of state, for a statewide or district office; or

(2) the county judge, for a county or precinct office.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 146.025. Filing Period.

(a) A declaration of write-in candidacy must be filed not later than 5 p.m. of the 78th day before general election day, except as otherwise provided by this code. A declaration may not be filed earlier than the 30th day before the date of the regular filing deadline.

(b) If a candidate whose name is to appear on the general election ballot dies or is declared ineligible after the third day before the date of the filing deadline prescribed by Subsection (a), a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 75th day before election day.

(c) A declaration of write-in candidacy filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 43, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 59, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 16, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 25, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 146.026. Review of Declaration.

The authority with whom a declaration of write-in candidacy is filed shall review the declaration and take the appropriate action in the manner prescribed by Section 141.032 for the review of an application for a place on the ballot.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 146.027. Limitation on Challenge of Declaration.

A declaration of write-in candidacy may not be challenged for compliance with the applicable requirements after the 15th day before election day.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 146.028. Preservation of Declaration.

A declaration of write-in candidacy shall be preserved in the same manner as a candidate's application for a place on the ballot.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 146.029. Certification of Candidate for Placement on List of Write-In Candidates.

(a) Except as provided by Section 146.030, the authority with whom a declaration of write-in can-

didacy is required to be filed shall certify in writing for placement on the list of write-in candidates the name of each candidate who files with the authority a declaration that complies with Section 146.023(b). If no name is to be certified, the authority shall certify that fact in writing.

(b) Each name shall be certified in the form indicated on the candidate's declaration of write-in candidacy, subject to Subchapter B, Chapter 52.

(c) Not later than the 68th day before election day, the certifying authority shall deliver the certification to the authority responsible for having the official ballot prepared in each county in which the office sought by the candidate is to be voted on.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 43, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 1109 (H.B. 2339), § 17, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 26, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1318 (S.B. 100), § 53 provides: "The changes in law made by this Act do not apply to an election held on November 8, 2011."

Sec. 146.031. List of Write-In Candidates.

(a) The authority responsible for having the official ballot prepared shall prepare a list containing the name of each write-in candidate certified to the authority. Each name must appear in the form in which it is certified.

(b) A write-in candidate's name may not appear more than once on the list.

(c) Copies of the list shall be distributed to the counting officers in the election for use in counting write-in votes.

(d) Copies of the list shall be distributed to each presiding election judge with the other election supplies. A copy of the list shall be posted in each polling place at each place where an instruction poster is required to be posted.

(e) The authority responsible for having the official ballot prepared shall retain a copy of the list and preserve it for the period for preserving the precinct election records.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 62, effective September 1, 1993.)

Sec. 146.032. Official Declaration Form.

An officially prescribed form for a declaration of write-in candidacy must include the elements required by Section 141.039 to be included in an official form for an application for a place on the ballot.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

TITLE 12

ELECTIONS TO FILL VACANCY IN OFFICE

CHAPTER 201
DETERMINATION OF AND ELECTION TO FILL VACANCY

Subchapter B. Time Vacancy Occurs

SUBCHAPTER B
TIME VACANCY OCCURS

Sec. 201.023. Resignation.

If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 1187 (S.B. 546), § 2, effective September 1, 1989.)

TITLE 15
REGULATING POLITICAL FUNDS AND CAMPAIGNS

CHAPTER 251
GENERAL PROVISIONS

Subchapter A. General Provisions

Subchapter B. Duties of Commission

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 251.001. Definitions.

In this title:

(1) "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

(A) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;

(B) the filing of an application for a place on a ballot;

(C) the filing of an application for nomination by convention;

(D) the filing of a declaration of intent to become an independent candidate or a declaration of write-in candidacy;

(E) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;

(F) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication;

(G) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure; and

(H) the seeking of the nomination of an executive committee of a political party to fill a vacancy.

(2) "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include:

(A) a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made; or

(B) an expenditure required to be reported under Section 305.006(b), Government Code.

(3) "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.

(4) "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that:

(A) are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and

(B) are not reimbursable with public money.

(5) "Political contribution" means a campaign contribution or an officeholder contribution.

(6) "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment.

(7) "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure.

Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure.

(8) "Direct campaign expenditure" means a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure.

(9) "Officeholder expenditure" means an expenditure made by any person to defray expenses that:

(A) are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office; and

(B) are not reimbursable with public money.

(10) "Political expenditure" means a campaign expenditure or an officeholder expenditure.

(11) "Reportable activity" means a political contribution, political expenditure, or other activity required to be reported under this title.

(12) "Political committee" means a group of persons that has as a principal purpose accepting political contributions or making political expenditures.

(13) "Specific-purpose committee" means a political committee that does not have among its principal purposes those of a general-purpose committee but does have among its principal purposes:

(A) supporting or opposing one or more:

(i) candidates, all of whom are identified and are seeking offices that are known; or

(ii) measures, all of which are identified;

(B) assisting one or more officeholders, all of whom are identified; or

(C) supporting or opposing only one candidate who is unidentified or who is seeking an office that is unknown.

(14) "General-purpose committee" means a political committee that has among its principal purposes:

(A) supporting or opposing:

(i) two or more candidates who are unidentified or are seeking offices that are unknown; or

(ii) one or more measures that are unidentified; or

(B) assisting two or more officeholders who are unidentified.

(15) "Out-of-state political committee" means a political committee that:

(A) makes political expenditures outside this state; and

(B) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

(17) "Campaign communication" means a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure.

(18) "Labor organization" means an agency, committee, or any other organization in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(19) "Measure" means a question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.

(20) "Commission" means the Texas Ethics Commission.

(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 237); am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.01, effective January 1, 1992; am. Acts 2003, 78th Leg., ch. 249 (H.B. 1606), § 2.01, effective September 1, 2003.)

Sec. 251.002. Officeholders Covered.

(a) The provisions of this title applicable to an officeholder apply only to a person who holds an elective public office and to the secretary of state.

(b) For purposes of this title, a state officer-elect or a member-elect of the legislature is considered an officeholder beginning on the day after the date of the general or special election at which the officer-elect or member-elect was elected. This subsection does not relieve a state officer-elect or member-elect

of the legislature of any reporting requirements the person may have as a candidate under this title.
(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 238); am. Acts 1987, 70th Leg., ch. 427 (S.B. 933), § 8, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 487 (H.B. 1608), § 1, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 251.003. Prohibition of Document Filing Fee.

A charge may not be made for filing a document required to be filed under this title.
(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 239); am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 251.004. Venue.

(a) Venue for a criminal offense prescribed by this title is in the county of residence of the defendant, unless the defendant is not a Texas resident, in which case venue is in Travis County.

(b) Venue for the recovery of delinquent civil penalties imposed by the commission under this title is in Travis County.
(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 239a); am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 1134 (H.B. 3207), § 1, effective September 1, 1997.)

Sec. 251.005. Out-of-State Committees Excluded.

(a) An out-of-state political committee is not subject to Chapter 252 or 254, except as provided by Subsection (b), (c), or (d).

(b) If an out-of-state committee decides to file a campaign treasurer appointment under Chapter 252, at the time the appointment is filed the committee becomes subject to this title to the same extent as a political committee that is not an out-of-state committee.

(c) If an out-of-state committee performs an activity that removes the committee from out-of-state status as defined by Section 251.001(15), the committee becomes subject to this title to the same extent as a political committee that is not an out-of-state committee.

(d) An out-of-state political committee that does not file a campaign treasurer appointment shall comply with Section 254.1581.
(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 239b); am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 2003, 78th Leg., ch. 249 (H.B. 1606), § 2.02, effective September 1, 2003.)

Sec. 251.006. Federal Office Excluded.

(a) Except as provided by Subsection (b), this title does not apply to a candidate for an office of the federal government.

(b) A candidate for an elective office of the federal government shall file with the commission a copy of each document relating to the candidacy that is required to be filed under federal law. The document shall be filed within the same period in which it is required to be filed under the federal law.
(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 239c); am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg. ch. 107 (H.B. 947), § 3.01, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 236, effective September 1, 1997.)

Sec. 251.007. Timeliness of Action by Mail.

When this title requires a notice, report, or other document or paper to be delivered, submitted, or filed within a specified period or before a specified deadline, a delivery, submission, or filing by first-class United States mail or common or contract carrier is timely, except as otherwise provided by this title, if:

(1) it is properly addressed with postage or handling charges prepaid; and

(2) it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within the period or before the deadline.

(Am. Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 8, effective January 1, 1986 (renumbered from Revised Civil Statutes Sec. 239d); am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 251.008. Certain Political Club Meetings Excluded.

(a) An expense incurred in connection with the conduct of a meeting of an organization or club

affiliated with a political party at which a candidate for an office regularly filled at the general election for state and county officers, or a person holding that office, appears before the members of the organization or club is not considered to be a political contribution or political expenditure if no political contributions are made to or solicited for the candidate or officeholder at the meeting.

(b) In this section, an organization or club is affiliated with a political party if it:

(1) supports the nominees of that political party but does not support any candidate seeking the party's nomination for an office over any other candidate seeking that nomination; and

(2) is recognized by the political party as an auxiliary of the party.

(Enacted by Acts 1989, 71st Leg., ch. 422 (H.B. 1603), § 1, effective September 1, 1989; am. Acts 1995, 74th Leg., ch. 752 (H.B. 485), § 1, effective September 1, 1995.)

Sec. 251.009. Legislative Caucus Contribution or Expenditure Not Considered to Be Officeholder Contribution or Expenditure.

A contribution to or expenditure by a legislative caucus, as defined by Section 253.0341, is not considered to be an officeholder contribution or officeholder expenditure for purposes of this title.

(Enacted by Acts 1995, 74th Leg., ch. 43 (H.B. 2), § 4, effective August 28, 1995.)

SUBCHAPTER B
DUTIES OF COMMISSION

Sec. 251.031. Interpretation and Administration [Repealed].

Repealed by Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.20, effective January 1, 1992.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 251.032. Forms.

In addition to furnishing samples of the appropriate forms to the authorities having administrative duties under this title, the commission shall furnish the forms to each political party's state executive committee and county chair of each county executive committee.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.03, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 237, effective September 1, 1997.)

Sec. 251.033. Notification of Deadline for Filing Reports.

(a) The commission shall notify each person responsible for filing a report with the commission under Subchapters C through F, Chapter 254, of the deadline for filing a report, except that notice of the deadline is not required for a political committee involved in an election other than a primary election or the general election for state and county officers. Notification under this subsection may be sent by electronic mail.

(b) If the commission is unable to notify a person of a deadline after two attempts, the commission is not required to make any further attempts to notify the person of that deadline or any future deadlines until the person has notified the commission of the person's current address or electronic mail address.

(c) Chapter 552, Government Code, does not apply to a notification under this section sent by electronic mail.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.04, effective August 30, 1993; am. Acts 2009, 81st Leg., ch. 996 (H.B. 3922), § 1, effective June 19, 2009.)

Sec. 251.034. Review of Reports [Repealed].

Repealed by Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.20, effective January 1, 1992.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 251.035. Report to Governor and Legislature [Repealed].

Repealed by Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.20, effective January 1, 1992.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

CHAPTER 252
CAMPAIGN TREASURER

Section

Section

Sec. 252.001. Appointment of Campaign Treasurer Required.

Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 252.0011. Ineligibility for Appointment As Campaign Treasurer.

(a) Except as provided by Subsection (b) or (c), a person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that does not file a report required by Chapter 254.

(b) The period for which a person is ineligible under Subsection (a) for appointment as a campaign treasurer ends on the date on which the political committee in connection with which the person's ineligibility arose has filed each report required by Chapter 254 that was not timely filed or has paid all fines and penalties in connection with the failure to file the report.

(c) Subsection (a) does not apply to a person if, in any semiannual reporting period prescribed by Chapter 254:

(1) the political committee in connection with which the person's ineligibility arose did not accept political contributions that in the aggregate exceed $5,000 or make political expenditures that in the aggregate exceed $5,000; and

(2) the candidate who or political committee that subsequently appoints the person does not accept political contributions that in the aggregate exceed $5,000 or make political expenditures that in the aggregate exceed $5,000.

(d) Subsection (c) applies to a person who is the campaign treasurer of a general-purpose committee regardless of whether the committee files monthly reports under Section 254.155. For purposes of this subsection, political contributions accepted and political expenditures made during a monthly reporting period are aggregated with political contributions accepted and political expenditures made in each other monthly reporting period that corresponds to the semiannual reporting period that contains those months.

(e) A candidate or political committee is considered to have not appointed a campaign treasurer if the candidate or committee appoints a person as campaign treasurer whose appointment is prohibited by Subsection (a).

(f) A person who violates this section is liable for a civil penalty not to exceed three times the amount of political contributions accepted or political expenditures made in violation of this section.

(Enacted by Acts 2003, 78th Leg., ch. 249 (H.B. 1606), § 2.03, effective September 1, 2003.)

Sec. 252.002. Contents of Appointment.

(a) A campaign treasurer appointment must be in writing and include:

(1) the campaign treasurer's name;

(2) the campaign treasurer's residence or business street address;

(3) the campaign treasurer's telephone number; and

(4) the name of the person making the appointment.

(b) A political committee that files its campaign treasurer appointment with the commission must notify the commission in writing of any change in the campaign treasurer's address not later than the 10th day after the date on which the change occurs.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.05, effective August 30, 1993.)

Sec. 252.003. Contents of Appointment by General-Purpose Committee.

(a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a general-purpose committee must include:

(1) the full name, and any acronym of the name that will be used in the name of the committee as provided by Subsection (d), of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the committee, if applicable, or the name of each person who determines to whom the committee makes contributions or the name of each person who determines for what purposes the committee makes expenditures;

(2) the full name and address of each general-purpose committee to whom the committee intends to make political contributions; and

(3) the name of the committee and, if the name is an acronym, the words the acronym represents.

(b) If any of the information required to be included in a general-purpose committee's appointment changes, excluding changes reported under Section 252.002(b), the committee shall file an amended appointment with the commission not later than the 30th day after the date the change occurs.

(c) The name of a general-purpose committee may not be the same as or deceptively similar to the name of any other general-purpose committee whose campaign treasurer appointment is filed with the commission. The commission shall determine whether the name of a general-purpose political committee is in violation of this prohibition and shall immediately notify the campaign treasurer of the offending political committee of that determination. The campaign treasurer of the political committee must file a name change with the commission not later than the 14th day after the date of notification. A campaign treasurer who fails to file a name change as provided by this subsection or a political committee that continues to use a prohibited name after its campaign treasurer has been notified by the commission commits an offense. An offense under this subsection is a Class B misdemeanor.

(d) The name of a general-purpose committee must include the name of each corporation, labor organization, or other association or legal entity other than an individual that directly establishes, administers, or controls the committee. The name of an entity that is required to be included in the name of the committee may be a commonly recognized acronym by which the entity is known.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.02, effective January 1, 1992; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.06, effective August 30, 1993.)

Sec. 252.0031. Contents of Appointment by Specific-Purpose Committee.

(a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) must include the name of and the office sought by the candidate. If that information changes, the committee shall immediately file an amended appointment reflecting the change.

(b) The name of a specific-purpose committee for supporting a candidate for an office specified by Section 252.005(1) must include the name of the candidate that the committee supports.

(Enacted by Acts 1989, 71st Leg., ch. 2 (S.B. 221), § 7.15(a), effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.03, effective January 1, 1992.)

Sec. 252.0032. Contents of Appointment by Candidate.

(a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a candidate must include:

(1) the candidate's telephone number; and

(2) a statement, signed by the candidate, that the candidate is aware of the nepotism law, Chapter 573, Government Code.

(b) A campaign treasurer appointment that is filed in a manner other than by use of an officially prescribed form is not invalid because it fails to comply with Subsection (a)(2).

(Enacted by Acts 1989, 71st Leg., ch. 2 (S.B. 221), § 7.15(a), effective August 28, 1989; Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3A.03, effective August 30, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(26), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1134 (H.B. 3207), § 2, effective September 1, 1997.)

Sec. 252.004. Designation of Oneself.

An individual may appoint himself or herself as campaign treasurer.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 238, effective September 1, 1997.)

Sec. 252.005. Authority with Whom Appointment Filed: Candidate.

An individual must file a campaign treasurer appointment for the individual's own candidacy with:

(1) the commission, if the appointment is made for candidacy for:

(A) a statewide office;

(B) a district office filled by voters of more than one county;

(C) a judicial district office filled by voters of only one county;

(D) state senator;

(E) state representative; or

(F) the State Board of Education;

(2) the county clerk, if the appointment is made for candidacy for a county office, a precinct office, or a district office other than one included in Subdivision (1);

(3) the clerk or secretary of the governing body of the political subdivision or, if the political subdivision has no clerk or secretary, with the governing body's presiding officer, if the appointment is made for candidacy for an office of a political subdivision other than a county;

(4) the county clerk if:

(A) the appointment is made for candidacy for an office of a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) no boundary of the political subdivision crosses a boundary of the county; or

(5) the commission if:

(A) the appointment is made for candidacy for an office of a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) the political subdivision is situated in more than one county.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.07, effective August 30, 1993; am. Acts 1999, 76th Leg., ch. 511 (S.B. 1726), § 1, effective September 1, 1999.)

Sec. 252.006. Authority with Whom Appointment Filed: Specific-Purpose Committee for Supporting or Opposing Candidate or Assisting Officeholder.

A specific-purpose committee for supporting or opposing a candidate or assisting an officeholder must file its campaign treasurer appointment with the same authority as the appointment for candidacy for the office.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 252.007. Authority with Whom Appointment Filed: Specific-Purpose Committee for Supporting or Opposing Measure.

A specific-purpose committee for supporting or opposing a measure must file its campaign treasurer appointment with:

(1) the commission, if the measure is to be submitted to voters of the entire state;

(2) the county clerk, if the measure is to be submitted to voters of a single county in an election ordered by a county authority;

(3) the secretary of the governing body of the political subdivision or, if the political subdivision has no secretary, with the governing body's presiding officer, if the measure is to be submitted at an election ordered by an authority of a political subdivision other than a county;

(4) the county clerk if:

(A) the measure concerns a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) no boundary of the political subdivision crosses a boundary of a county; or

(5) the commission if:

(A) the measure concerns a political subdivision other than a county;

(B) the governing body for the political subdivision has not been formed; and

(C) the political subdivision is situated in more than one county.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.08, effective August 30, 1993.)

Sec. 252.008. Multiple Filings by Specific-Purpose Committee Not Required.

If under this chapter a specific-purpose committee is required to file its campaign treasurer appointment with more than one authority, the appointment need only be filed with the commission and, if so filed, need not be filed with the other authorities.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.09, effective August 30, 1993.)

Sec. 252.009. Authority with Whom Appointment Filed: General-Purpose Committee.

A general-purpose committee must file its campaign treasurer appointment with the commission.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.10, effective August 30, 1993.)

Sec. 252.010. Transfer of Appointment.

(a) If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new campaign treasurer appointment.

(b) The original appointment terminates on the filing of the copy with the appropriate authority or

on the 10th day after the date the decision to seek a different office is made, whichever is earlier.
(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 252.011. Time Appointment Takes Effect; Period of Effectiveness.

(a) A campaign treasurer appointment takes effect at the time it is filed with the authority specified by this chapter.

(b) A campaign treasurer appointment continues in effect until terminated.
(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 252.012. Removal of Campaign Treasurer.

(a) A campaign treasurer appointed under this chapter may be removed at any time by the appointing authority by filing the written appointment of a successor in the same manner as the original appointment.

(b) The appointment of a successor terminates the appointment of the campaign treasurer who is removed.

(c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the commission or of a general-purpose political committee is removed by the committee, the departing campaign treasurer shall immediately file written notification of the termination of appointment with the commission.
(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.11, effective August 30, 1993.)

Sec. 252.013. Termination of Appointment on Vacating Position.

(a) If a campaign treasurer resigns or otherwise vacates the position, the appointment is terminated at the time the vacancy occurs.

(b) A campaign treasurer who vacates the treasurer's position shall immediately notify the appointing authority in writing of the vacancy.

(c) If the campaign treasurer of a specific-purpose political committee required to file its campaign treasurer appointment with the commission or of a general-purpose political committee resigns or otherwise vacates the position, the campaign treasurer shall immediately file written notification of the vacancy with the commission.
(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.12, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 239, effective September 1, 1997.)

Sec. 252.0131. Termination of Campaign Treasurer Appointment.

(a) The commission by rule shall adopt a process by which the commission may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the commission. The governing body of a political subdivision by ordinance or order may adopt a process by which the clerk or secretary, as applicable, of the political subdivision may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the clerk or secretary. For purposes of this section, a candidate or political committee is inactive if the candidate or committee:

(1) has never filed or has ceased to file reports under Chapter 254;

(2) in the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the authority who is seeking to terminate the candidate's campaign treasurer appointment; and

(3) has not filed:

(A) a final report under Section 254.065 or 254.125; or

(B) a dissolution report under Section 254.126 or 254.159.

(b) Before the commission may terminate a campaign treasurer appointment, the commission must consider the proposed termination in a regularly scheduled open meeting. Before the clerk or secretary of a political subdivision may terminate a campaign treasurer appointment, the governing body of the political subdivision must consider the proposed termination in a regularly scheduled open meeting.

(c) Rules or an ordinance or order adopted under this section must:

(1) define "inactive candidate or political committee" for purposes of terminating the candidate's or committee's campaign treasurer appointment; and

(2) require written notice to the affected candidate or committee of:

(A) the proposed termination of the candidate's or committee's campaign treasurer appointment;

(B) the date, time, and place of the meeting at which the commission or governing body of the political subdivision, as applicable, will consider the proposed termination; and

(C) the effect of termination of the candidate's or committee's campaign treasurer appointment.

(d) The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the commission or governing body, as applicable, votes to terminate the appointment. Following that meeting, the commission or the clerk or secretary of the political subdivision, as applicable, shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

(Enacted by Acts 2003, 78th Leg., ch. 249 (H.B. 1606), § 2.04, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 597 (H.B. 1863), § 1, effective June 17, 2005.)

Sec. 252.014. Preservation of Filed Appointments.

The authority with whom a campaign treasurer appointment is filed under this chapter shall preserve the appointment for two years after the date the appointment is terminated.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 252.015. Assistant Campaign Treasurer.

(a) Each specific-purpose committee for supporting or opposing a candidate for an office specified by Section 252.005(1) or a statewide or district measure and each general-purpose committee may appoint an assistant campaign treasurer by written appointment filed with the commission.

(b) In the campaign treasurer's absence, the assistant campaign treasurer has the same authority as a campaign treasurer.

(c) Sections 252.011, 252.012, 252.013, and 252.014 apply to the appointment and removal of an assistant campaign treasurer.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 3.13, effective August 30, 1993.)

CHAPTER 254
POLITICAL REPORTING

Subchapter B. Political Reporting Generally

SUBCHAPTER B
POLITICAL REPORTING GENERALLY

Sec. 254.04011. Availability of Reports of School Trustees on Internet.

(a) This section applies only to a school district:

(1) located wholly or partly in a municipality with a population of more than 500,000; and

(2) with a student enrollment of more than 15,000.

(b) A report filed under this chapter by a member of the board of trustees of a school district, a candidate for membership on the board of trustees of a school district, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board of trustees of a school district must be posted on the Internet website of the school district.

(c) A report to which Subsection (b) applies must be available to the public on the Internet website not later than the fifth business day after the date the report is filed with the school district.

(d) The access allowed by this section to reports is in addition to the public's access to the information through other electronic or print distribution of the information.

(e) Before making a report available on the Internet under this section, the school district may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. If the address information is removed as permitted by this subsection, the information must remain available on the report maintained in the school district's office.

(Enacted by Acts 2011, 82nd Leg., ch. 1272 (H.B. 336), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1272 (H.B. 336), § 2 provides: "The change in law made by this Act by adding Section 254.04011, Election Code, applies only to the posting of a report of political contributions and expenditures that is required to be filed on or after January 1, 2012."

CHAPTER 255
REGULATING POLITICAL ADVERTISING AND CAMPAIGN COMMUNICATIONS

Section
255.005. Misrepresentation of Identity.
255.006. Misleading Use of Office Title.
255.007. Notice Requirement on Political Advertising Signs.
255.008. Disclosure on Political Advertising for Judicial Office.

Sec. 255.001. Required Disclosure on Political Advertising.

(a) A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:

(1) that it is political advertising; and

(2) the full name of:

(A) the person who paid for the political advertising;

(B) the political committee authorizing the political advertising; or

(C) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

(b) Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy.

(c) A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 255.007, that have been distributed do not include the disclosure required by Subsection (a) or include a disclosure that does not comply with Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure required by Subsection (a) or includes a disclosure that does not comply with Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.

(d) This section does not apply to:

(1) tickets or invitations to political fund-raising events;

(2) campaign buttons, pins, hats, or similar campaign materials; or

(3) circulars or flyers that cost in the aggregate less than $500 to publish and distribute.

(e) A person who violates this section is liable to the state for a civil penalty in an amount determined by the commission not to exceed $4,000.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 2003, 78th Leg., ch. 249 (H.B. 1606), § 2.23, effective September 1, 2003.)

Sec. 255.002. Rates for Political Advertising.

(a) The rate charged for political advertising by a radio or television station may not exceed:

(1) during the 45 days preceding a general or runoff primary election and during the 60 days preceding a general or special election, the broadcaster's lowest unit charge for advertising of the same class, for the same time, and for the same period; or

(2) at any time other than that specified by Subdivision (1), the amount charged other users for comparable use of the station.

(b) The rate charged for political advertising that is printed or published may not exceed the lowest charge made for comparable use of the space for any other purposes.

(c) In determining amounts charged for comparable use, the amount and kind of space or time used, number of times used, frequency of use, type of advertising copy submitted, and any other relevant factors shall be considered.

(d) Discounts offered by a newspaper or magazine to its commercial advertisers shall be offered on equal terms to purchasers of political advertising from the newspaper or magazine.

(e) A person commits an offense if the person knowingly demands or receives or knowingly pays or offers to pay for political advertising more consideration than permitted by this section.

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

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 255.003. Unlawful Use of Public Funds for Political Advertising.

(a) An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.

(b) Subsection (a) does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

(b-1) An officer or employee of a political subdivision may not spend or authorize the spending of

public funds for a communication describing a measure if the communication contains information that:

(1) the officer or employee knows is false; and

(2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

(c) A person who violates Subsection (a) or (b-1) commits an offense. An offense under this section is a Class A misdemeanor.

(d) It is an affirmative defense to prosecution for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this section in a written opinion issued by:

(1) a court of record;

(2) the attorney general; or

(3) the commission.

(e) On written request of the governing body of a political subdivision that has ordered an election on a measure, the commission shall prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with this section.

(f) Subsections (d) and (e) do not apply to a port authority or navigation district.

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 2009, 81st Leg., ch. 644 (H.B. 1720), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 843 (S.B. 2085), §§ 1, 2, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 644 (H.B. 1720), § 2 provides:

"(a) Section 255.003(b-1), Election Code, as added by this Act, applies only to an expenditure of public funds that is made on or after September 1, 2009. An expenditure of public funds that is made before September 1, 2009, is governed by the law in effect on the date the expenditure is made, and the former law is continued in effect for that purpose.

(b) Section 255.003(d), Election Code, as added by this Act, applies to the prosecution of conduct committed before, on, or after September 1, 2009, as to which:

(1) judgment has not been entered or a sentence has not been imposed; or

(2) if judgment has been entered and a sentence imposed, an appeal is pending or the time for appeal has not expired."

Acts 2009, 81st Leg., ch. 843 (H.B. 2085), § 2 provides:

"Section 255.003, Election Code, as amended by this Act, applies to the prosecution of conduct committed before, on, or after September 1, 2009, as to which:

(1) judgment has not been entered or a sentence has not been imposed; or

(2) if judgment has been entered and a sentence imposed, an appeal is pending or the time for appeal has not expired."

Sec. 255.0031. Unlawful Use of Internal Mail System for Political Advertising.

(a) An officer or employee of a state agency or political subdivision may not knowingly use or authorize the use of an internal mail system for the distribution of political advertising.

(b) Subsection (a) does not apply to:

(1) the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service; or

(2) the use of an internal mail system by a state agency or municipality to distribute political advertising that is the subject of or related to an investigation, hearing, or other official proceeding of the agency or municipality.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

(d) In this section:

(1) "Internal mail system" means a system operated by a state agency or political subdivision to deliver written documents to officers or employees of the agency or subdivision.

(2) "State agency" means:

(A) a department, commission, board, office, or other agency that is in the legislative, executive, or judicial branch of state government;

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(C) a river authority created under the constitution or a statute of this state.

(Enacted by Acts 2003, 78th Leg., ch. 229 (H.B. 736), § 1, effective September 1, 2003.)

Sec. 255.004. True Source of Communication.

(a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.

(b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.

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

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987.)

Sec. 255.005. Misrepresentation of Identity.

(a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person's iden-

tity or, if acting or purporting to act as an agent, misrepresents the identity of the agent's principal, in political advertising or a campaign communication.

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

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 249, effective September 1, 1997.)

Sec. 255.006. Misleading Use of Office Title.

(a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made.

(b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.

(c) For purposes of this section, a person represents that a candidate holds a public office that the candidate does not hold if:

(1) the candidate does not hold the office that the candidate seeks; and

(2) the political advertising or campaign communication states the public office sought but does not include the word "for" in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office.

(d) A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising.

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

(Am. Acts 1987, 70th Leg., ch. 899 (H.B. 1818), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 300 (H.B. 1463), § 30, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 864 (H.B. 1603), § 250, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1134 (H.B. 3207), § 9, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 5 (5.17), effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 737 (H.B. 1068), § 1, effective September 1, 1999.)

Sec. 255.007. Notice Requirement on Political Advertising Signs.

(a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e) In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

(Enacted by Acts 1991, 72nd Leg., ch. 288 (S.B. 1267), § 5, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1134 (H.B. 3207), § 10, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 71, effective September 1, 1997.)

Sec. 255.008. Disclosure on Political Advertising for Judicial Office.

(a) This section applies only to a candidate or political committee covered by Subchapter F, Chapter 253.

(b) Political advertising by a candidate who files a declaration of intent to comply with the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate may include the following statement: "Political advertising paid for by (name of candidate or committee) in compliance with the voluntary limits of the Judicial Campaign Fairness Act."

(c) Political advertising by a candidate who files a declaration of intent to comply with the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate that does not contain the statement prescribed by Subsection (b) must comply with Section 255.001.

(d) Political advertising by a candidate who files a declaration of intent to exceed the limits on expenditures under Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate must include the following statement: "Political advertising paid for by (name of candidate or committee), (who or which) has rejected the

voluntary limits of the Judicial Campaign Fairness Act."

(e) The commission shall adopt rules providing for:

(1) the minimum size of the disclosure required by this section in political advertising that appears on television or in writing; and

(2) the minimum duration of the disclosure required by this section in political advertising that appears on television or radio.

(f) A person who violates this section or a rule adopted under this section is liable for a civil penalty not to exceed:

(1) $15,000, for a candidate for a statewide judicial office or a specific-purpose committee for supporting such a candidate;

(2) $10,000, for a candidate for chief justice or justice, court of appeals, or a specific-purpose committee for supporting such a candidate; or

(3) $5,000, for a candidate for any other judicial office covered by Subchapter F, Chapter 253, or a specific-purpose committee for supporting such a candidate.

(g) Section 253.176 applies to the imposition and disposition of a civil penalty under this section.

(Enacted by Acts 1995, 74th Leg., ch. 763 (S.B. 94), § 6, effective September 1, 1995.)

TITLE 16
MISCELLANEOUS PROVISIONS

CHAPTER 271
JOINT ELECTIONS

Section

Sec. 271.001. Applicability of Other Parts of Code.

The other titles of this code apply to a joint election except provisions that are inconsistent with this chapter or that cannot feasibly be applied to a joint election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.002. Joint Elections Authorized.

(a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county, the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county, the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

(d) The terms of a joint election agreement must be stated in an order, resolution, or other official action adopted by the governing body of each participating political subdivision.

(e) The document containing the joint election agreement shall be preserved for the period for preserving the precinct election records.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 24, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 271.003. Location of Common Polling Place.

(a) A regular county polling place may be used for a common polling place in a joint election.

(b) The voters of a particular election precinct or political subdivision may be served in a joint election by a common polling place located outside the boundary of the election precinct or political subdivision if the location can adequately and conveniently serve the affected voters and will facilitate the orderly conduct of the election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1997, 75th Leg., ch. 1350 (H.B. 332), § 9, effective September 1, 1997.)

Sec. 271.004. Allocation of Election Expenses.

The expenses of a joint election are allocated as provided by the joint election agreement.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.005. Election Officers.

(a) An election officer for a joint election may be appointed to serve more than one of the participating political subdivisions.

(b) A person who is eligible to serve as an election officer in an election of any participating political subdivision is eligible to serve in the same office in a joint election.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.006. Early Voting.

(a) The governing bodies of the political subdivisions participating in a joint election shall decide whether to conduct their early voting jointly. The governing bodies that decide to conduct joint early voting shall appoint one of their early voting clerks as the early voting clerk for the joint early voting.

(b) The joint early voting shall be conducted at the early voting polling place or places at which and during the hours, including any extended or weekend hours, that the early voting clerk regularly conducts early voting for the clerk's political subdivision.

(c) The regular early voting clerk for each political subdivision participating in the joint early voting shall receive applications for early voting ballots to be voted by mail in accordance with Title 7. The remaining procedures for conducting the political subdivision's early voting by mail shall be completed by the regular early voting clerk or by the early voting clerk for the joint early voting, at the discretion of the governing body of each political subdivision participating in the joint early voting.

(d) If a governing body decides not to participate in the joint early voting, the early voting for that political subdivision shall be conducted in accordance with Title 7, except that the early voting may be conducted at common polling places.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.72, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 43, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 77, effective September 1, 1993.)

Sec. 271.007. Ballot.

A single ballot containing all the offices or propositions stating measures to be voted on at a particular polling place may be used in a joint election. A voter may not be permitted to select a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.0071. Multiple Methods of Voting Allowed.

The restrictions on multiple methods of voting at the same polling place or in early voting prescribed by Sections 123.005—123.007 do not apply to a joint election as if the joint election were a single election but rather apply independently to the election of each participating political subdivision in the joint election.

(Enacted by Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 72, effective September 1, 1997.)

Sec. 271.008. Ballot Boxes.

(a) One set of ballot boxes may be used at a common polling place in a joint election for the deposit of all the ballots for each of the participating political subdivisions.

(b) If the voted ballots for more than one political subdivision participating in a joint election are deposited in a single ballot box after they are counted, the custodian of the key to the ballot box for voted ballots for elections ordered by an authority of any one of the participating political subdivisions may be appointed as the custodian of the key to that box.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.009. Combining Election Forms and Records.

The forms used and records maintained at a common polling place in a joint election may be

combined in any manner convenient and adequate to record and report the results of the election for each of the participating political subdivisions.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.010. Custodian of Election Records.

The general custodian of election records for elections ordered by an authority of any one of the political subdivisions participating in a joint election may be appointed as the general custodian of election records for the joint election if:

(1) the election records for a common polling place are combined; or

(2) the ballots for more than one of the participating political subdivisions are deposited by the voters in a single ballot box.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.011. Canvass.

(a) The authority responsible for canvassing the precinct returns for the elections of one of the political subdivisions participating in a joint election may be designated to canvass the returns for one or more of the other participating political subdivisions.

(b) If elections are jointly canvassed, the presiding officer of the joint canvassing authority shall deliver the appropriate part of the tabulation of the precinct results to each of the presiding officers of the canvassing authorities designated by law for the elections of the participating political subdivisions. Each tabulation shall then be processed in the same manner as for an election not canvassed jointly.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.012. Certificate of Election.

The presiding officer of the canvassing authority that regularly serves a particular political subdivision shall issue certificates of election to candidates elected at the joint election to offices of the political subdivision.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.013. Compensation of Judges and Clerks.

(a) Except as provided by this section, compensation for election officers serving at a common polling place in a joint election is the same as that paid to election officers serving at a regular polling place.

(b) If the election records, keys, and supplies for a common polling place are to be delivered to different places for two or more participating political subdivisions:

(1) compensation may be paid in the amount prescribed by this code for delivery, multiplied by the number of participating political subdivisions for which delivery is made to different locations; and

(2) compensation may be paid to one election officer appointed to make the delivery or allocated evenly among the election officers who make the delivery.

(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

Sec. 271.014. Conflicts with Other Law.

A law outside this code pertaining to a joint election supersedes this chapter to the extent of any conflict.
(Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.)

CHAPTER 277
PETITION PRESCRIBED BY LAW OUTSIDE CODE

Section

Sec. 277.001. Applicability of Chapter.

This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election.
(Enacted by Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 16(c), effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 81, effective September 1, 1993; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 25, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: "The changes in law made by this Act apply only to an election ordered on or after September 1, 2009."

Sec. 277.002. Validity of Petition Signatures.

(a) For a petition signature to be valid, a petition must:

(1) contain in addition to the signature:

(A) the signer's printed name;

(B) the signer's:

(i) date of birth; or

(ii) voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(C) the signer's residence address; and

(D) the date of signing; and

(2) comply with any other applicable requirements prescribed by law.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state. The omission of the zip code from the address does not invalidate a signature.

(e) A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

(Enacted by Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 16(c), effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 82, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1349 (H.B. 331), § 73, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § 43, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1107 (H.B. 2309), § 1(1.25), effective September 1, 2005.)

Sec. 277.0021. Meaning of Qualified Voter.

A reference in a law outside this code to "qualified voter" in the context of eligibility to sign a petition means "registered voter."

(Enacted by Acts 1989, 71st Leg., ch. 483 (H.B. 2032), § 1, effective September 1, 1989.)

Sec. 277.0022. Withdrawal of Signature.

(a) A signer may not withdraw the signature from a petition on or after the date the petition is received by the authority with whom it is required to be filed. Before that date, a signer may withdraw the signature by deleting the signature from the petition or by filing with the authority with whom the petition is required to be filed an affidavit requesting that the signature be withdrawn from the petition.

(b) A withdrawal affidavit filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) The withdrawal of a signature nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

(Enacted by Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 5.19, effective January 1, 1992.)

Sec. 277.0023. Supplementing Petition.

(a) Except as provided by Subsection (b), a petition may not be supplemented, modified, or amended on or after the date it is received by the authority with whom it is required to be filed unless expressly authorized by law.

(b) If a petition is required to be filed by a specified deadline, the petitioner may file one supplementary petition by that deadline if the original petition contains a number of signatures that exceeds the required minimum number by 10 percent or more and is received by the authority with whom it is required to be filed not later than the 10th day before the date of the deadline. The authority shall notify the petitioner as to the sufficiency of the petition not later than the fifth regular business day after the date of its receipt.

(Enacted by Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 83, effective September 1, 1993.)

Sec. 277.0024. Computing Number of Signatures.

If the minimum number of signatures required for a petition is determined by a computation applied to the number of registered voters of a particular territory, voters whose names appear on the list of registered voters with the notation "S", or a similar notation, shall be excluded from the computation.

(Enacted by Acts 1995, 74th Leg., ch. 797 (H.B. 127), § 43, effective September 1, 1995.)

Sec. 277.003. Verifying Signatures by Statistical Sample.

If a petition contains more than 1,000 signatures, the city secretary or other authority responsible for verifying the signatures may use any reasonable statistical sampling method in determining whether the petition contains the required number of valid signatures, except that the sample may not be less than 25 percent of the total number of signatures appearing on the petition or 1,000, whichever is greater. If the signatures on a petition circulated on a statewide basis are to be verified by the secretary of state, the sample prescribed by Section 141.069 applies to the petition rather than the sample prescribed by this section.

(Enacted by Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 16(c), effective September 1, 1987.)

Sec. 277.004. Effect of City Charter or Ordinance.

Any requirements for the validity or verification of petition signatures in addition to those prescribed by this chapter that are prescribed by a home-rule city charter provision or a city ordinance are effective only if the charter provision or ordinance was in effect September 1, 1985.

(Enacted by Acts 1987, 70th Leg., ch. 54 (S.B. 280), § 16(c), effective September 1, 1987.)

Texas Family Code

TITLE 2
CHILD IN RELATION TO THE FAMILY

SUBTITLE A
LIMITATIONS OF MINORITY

CHAPTER 32
CONSENT TO TREATMENT OF CHILD BY NON-PARENT OR CHILD

Subchapter A. Consent to Medical, Dental, Psychological, and Surgical Treatment

Subchapter B. Immunization

Subchapter C. Miscellaneous Provisions

SUBCHAPTER A
CONSENT TO MEDICAL, DENTAL, PSYCHOLOGICAL, AND SURGICAL TREATMENT

Sec. 32.001. Consent by Non-Parent.

(a) The following persons may consent to medical, dental, psychological, and surgical treatment of a child when the person having the right to consent as otherwise provided by law cannot be contacted and that person has not given actual notice to the contrary:

(1) a grandparent of the child;

(2) an adult brother or sister of the child;

(3) an adult aunt or uncle of the child;

(4) an educational institution in which the child is enrolled that has received written authorization to consent from a person having the right to consent;

(5) an adult who has actual care, control, and possession of the child and has written authorization to consent from a person having the right to consent;

(6) a court having jurisdiction over a suit affecting the parent-child relationship of which the child is the subject;

(7) an adult responsible for the actual care, control, and possession of a child under the jurisdiction of a juvenile court or committed by a juvenile court to the care of an agency of the state or county; or

(8) a peace officer who has lawfully taken custody of a minor, if the peace officer has reasonable grounds to believe the minor is in need of immediate medical treatment.

(b) Except as otherwise provided by this subsection, the Texas Youth Commission may consent to the medical, dental, psychological, and surgical treatment of a child committed to the Texas Youth Commission under Title 3 when the person having the right to consent has been contacted and that person has not given actual notice to the contrary. Consent for medical, dental, psychological, and surgical treatment of a child for whom the Department of Family and Protective Services has been appointed managing conservator and who is committed to the Texas Youth Commission is governed by Sections 266.004, 266.009, and 266.010.

(c) This section does not apply to consent for the immunization of a child.

(d) A person who consents to the medical treatment of a minor under Subsection (a)(7) or (8) is immune from liability for damages resulting from the examination or treatment of the minor, except to the extent of the person's own acts of negligence. A physician or dentist licensed to practice in this state, or a hospital or medical facility at which a minor is treated is immune from liability for damages resulting from the examination or treatment of a minor under this section, except to the extent of the person's own acts of negligence.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 5, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 108 (H.B. 1629), § 1, effective May 23, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 108 (H.B. 1629), § 16(b) provides: "The changes in law made by this Act apply to an individual for whom the Department of Family and Protective Services or another agency has been appointed managing conservator and who is in the custody of the Texas Youth Commission or released under supervision by the Texas Youth Commission on or after the effective date of this Act [May 23, 2009], regardless of the date on which the person was committed to the Texas Youth Commission or released under supervision by the Texas Youth Commission."

Sec. 32.002. Consent Form.

(a) Consent to medical treatment under this subchapter must be in writing, signed by the person giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment.

(b) The consent must include:

(1) the name of the child;

(2) the name of one or both parents, if known, and the name of any managing conservator or guardian of the child;

(3) the name of the person giving consent and the person's relationship to the child;

(4) a statement of the nature of the medical treatment to be given; and

(5) the date the treatment is to begin.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 32.003. Consent to Treatment by Child.

(a) A child may consent to medical, dental, psychological, and surgical treatment for the child by a licensed physician or dentist if the child:

(1) is on active duty with the armed services of the United States of America;

(2) is:

(A) 16 years of age or older and resides separate and apart from the child's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence; and

(B) managing the child's own financial affairs, regardless of the source of the income;

(3) consents to the diagnosis and treatment of an infectious, contagious, or communicable disease that is required by law or a rule to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health, including all diseases within the scope of Section 81.041, Health and Safety Code;

(4) is unmarried and pregnant and consents to hospital, medical, or surgical treatment, other than abortion, related to the pregnancy;

(5) consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use;

(6) is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child; or

(7) is serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice, unless the treatment would constitute a prohibited practice under Section 164.052(a)(19), Occupations Code.

(b) Consent by a child to medical, dental, psychological, and surgical treatment under this section is not subject to disaffirmance because of minority.

(c) Consent of the parents, managing conservator, or guardian of a child is not necessary in order to authorize hospital, medical, surgical, or dental care under this section.

(d) A licensed physician, dentist, or psychologist may, with or without the consent of a child who is a patient, advise the parents, managing conservator, or guardian of the child of the treatment given to or needed by the child.

(e) A physician, dentist, psychologist, hospital, or medical facility is not liable for the examination and treatment of a child under this section except for the provider's or the facility's own acts of negligence.

(f) A physician, dentist, psychologist, hospital, or medical facility may rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's medical treatment.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 6, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 821 (H.B. 920), § 2.01, effective June 14, 2001; am. Acts 2007, 80th Leg., ch. 1227 (H.B. 2389), § 2, effective June 15, 2007.)

Sec. 32.004. Consent to Counseling.

(a) A child may consent to counseling for:

(1) suicide prevention;

(2) chemical addiction or dependency; or

(3) sexual, physical, or emotional abuse.

(b) A licensed or certified physician, psychologist, counselor, or social worker having reasonable grounds to believe that a child has been sexually, physically, or emotionally abused, is contemplating suicide, or is suffering from a chemical or drug addiction or dependency may:

(1) counsel the child without the consent of the child's parents or, if applicable, managing conservator or guardian;

(2) with or without the consent of the child who is a client, advise the child's parents or, if applicable, managing conservator or guardian of the treatment given to or needed by the child; and

(3) rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's own treatment under this section.

(c) Unless consent is obtained as otherwise allowed by law, a physician, psychologist, counselor, or social worker may not counsel a child if consent is prohibited by a court order.

(d) A physician, psychologist, counselor, or social worker counseling a child under this section is not liable for damages except for damages resulting from the person's negligence or wilful misconduct.

(e) A parent, or, if applicable, managing conservator or guardian, who has not consented to counseling treatment of the child is not obligated to compensate a physician, psychologist, counselor, or social worker for counseling services rendered under this section.
(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 32.005. Examination Without Consent of Abuse or Neglect of Child.

(a) Except as provided by Subsection (c), a physician, dentist, or psychologist having reasonable grounds to believe that a child's physical or mental condition has been adversely affected by abuse or neglect may examine the child without the consent of the child, the child's parents, or other person authorized to consent to treatment under this subchapter.

(b) An examination under this section may include X-rays, blood tests, photographs, and penetration of tissue necessary to accomplish those tests.

(c) Unless consent is obtained as otherwise allowed by law, a physician, dentist, or psychologist may not examine a child:

(1) 16 years of age or older who refuses to consent; or

(2) for whom consent is prohibited by a court order.

(d) A physician, dentist, or psychologist examining a child under this section is not liable for damages except for damages resulting from the physician's or dentist's negligence.
(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 1, effective September 1, 1997.)

SUBCHAPTER B
IMMUNIZATION

Sec. 32.101. Who May Consent to Immunization of Child.

(a) In addition to persons authorized to consent to immunization under Chapter 151 and Chapter 153, the following persons may consent to the immunization of a child:

(1) a guardian of the child; and

(2) a person authorized under the law of another state or a court order to consent for the child.

(b) If the persons listed in Subsection (a) are not available and the authority to consent is not denied under Subsection (c), consent to the immunization of a child may be given by:

(1) a grandparent of the child;

(2) an adult brother or sister of the child;

(3) an adult aunt or uncle of the child;

(4) a stepparent of the child;

(5) an educational institution in which the child is enrolled that has written authorization to consent for the child from a parent, managing conservator, guardian, or other person who under the law of another state or a court order may consent for the child;

(6) another adult who has actual care, control, and possession of the child and has written authorization to consent for the child from a parent, managing conservator, guardian, or other person who, under the law of another state or a court order, may consent for the child;

(7) a court having jurisdiction of a suit affecting the parent-child relationship of which the minor is the subject;

(8) an adult having actual care, control, and possession of the child under an order of a juvenile court or by commitment by a juvenile court to the care of an agency of the state or county; or

(9) an adult having actual care, control, and possession of the child as the child's primary caregiver.

(c) A person otherwise authorized to consent under Subsection (a) may not consent for the child if the person has actual knowledge that a parent, managing conservator, guardian of the child, or other person who under the law of another state or a court order may consent for the child:

(1) has expressly refused to give consent to the immunization;

(2) has been told not to consent for the child; or

(3) has withdrawn a prior written authorization for the person to consent.

(d) The Texas Youth Commission may consent to the immunization of a child committed to it if a parent, managing conservator, or guardian of the minor or other person who, under the law of another state or court order, may consent for the minor has been contacted and:

(1) refuses to consent; and

(2) does not expressly deny to the Texas Youth Commission the authority to consent for the child.

(e) A person who consents under this section shall provide the health care provider with sufficient and accurate health history and other information about the minor for whom the consent is given and, if necessary, sufficient and accurate health history and information about the minor's family to enable the person who may consent to the minor's immunization and the health care provider to determine adequately the risks and benefits inherent in the proposed immunization and to determine whether immunization is advisable.

(f) Consent to immunization must meet the requirements of Section 32.002(a).

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 7.09(a), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.02, effective September 1, 1999.)

Sec. 32.1011. Consent to Immunization by Child.

(a) Notwithstanding Section 32.003 or 32.101, a child may consent to the child's own immunization for a disease if:

(1) the child:

(A) is pregnant; or

(B) is the parent of a child and has actual custody of that child; and

(2) the Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age.

(b) Consent to immunization under this section must meet the requirements of Section 32.002(a).

(c) Consent by a child to immunization under this section is not subject to disaffirmance because of minority.

(d) A health care provider or facility may rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's immunization under this section.

(e) To the extent of any conflict between this section and Section 32.003, this section controls.

(Enacted by Acts 2013, 83rd Leg., ch. 1313 (S.B. 63), § 1, effective June 14, 2013.)

Sec. 32.102. Informed Consent to Immunization.

(a) A person authorized to consent to the immunization of a child has the responsibility to ensure that the consent, if given, is an informed consent. The person authorized to consent is not required to be present when the immunization of the child is requested if a consent form that meets the requirements of Section 32.002 has been given to the health care provider.

(b) The responsibility of a health care provider to provide information to a person consenting to immunization is the same as the provider's responsibility to a parent.

(c) As part of the information given in the counseling for informed consent, the health care provider shall provide information to inform the person authorized to consent to immunization of the procedures available under the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. Section 300aa-1 et seq.) to seek possible recovery for unreimbursed expenses for certain injuries arising out of the administration of certain vaccines.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 7.09(b), (d), effective September 1, 1997 (renumbered from Sec. 32.103).)

Sec. 32.103. Limited Liability for Immunization.

(a) In the absence of wilful misconduct or gross negligence, a health care provider who accepts the health history and other information given by a person who is delegated the authority to consent to the immunization of a child during the informed consent counseling is not liable for an adverse reaction to an immunization or for other injuries to the child resulting from factual errors in the health history or information given by the person to the health care provider.

(b) A person consenting to immunization of a child, a physician, nurse, or other health care provider, or a public health clinic, hospital, or other medical facility is not liable for damages arising from an immunization administered to a child authorized under this subchapter except for injuries resulting from the person's or facility's own acts of negligence.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th

Leg., ch. 165 (S.B. 898), § 7.09(e), effective September 1, 1997 (renumbered from Sec. 32.104).)

SUBCHAPTER C
MISCELLANEOUS PROVISIONS

Sec. 32.201. Emergency Shelter or Care for Minors.

(a) An emergency shelter facility may provide shelter and care to a minor and the minor's child or children, if any.

(b) An emergency shelter facility may provide shelter or care only during an emergency constituting an immediate danger to the physical health or safety of the minor or the minor's child or children.

(c) Shelter or care provided under this section may not be provided after the 15th day after the date the shelter or care is commenced unless:

(1) the facility receives consent to continue services from the minor in accordance with Section 32.202; or

(2) the minor has qualified for financial assistance under Chapter 31, Human Resources Code, and is on the waiting list for housing assistance.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 2003, 78th Leg., ch. 192 (H.B. 1364), § 1, effective June 2, 2003.)

Sec. 32.202. Consent to Emergency Shelter or Care by Minor.

(a) A minor may consent to emergency shelter or care to be provided to the minor or the minor's child or children, if any, under Section 32.201(c) if the minor is:

(1) 16 years of age or older and:

(A) resides separate and apart from the minor's parent, managing conservator, or guardian, regardless of whether the parent, managing conservator, or guardian consents to the residence and regardless of the duration of the residence; and

(B) manages the minor's own financial affairs, regardless of the source of income; or

(2) unmarried and is pregnant or is the parent of a child.

(b) Consent by a minor to emergency shelter or care under this section is not subject to disaffirmance because of minority.

(c) An emergency shelter facility may, with or without the consent of the minor's parent, managing conservator, or guardian, provide emergency shelter or care to the minor or the minor's child or children under Section 32.201(c).

(d) An emergency shelter facility is not liable for providing emergency shelter or care to the minor or the minor's child or children if the minor consents as provided by this section, except that the facility is liable for the facility's own acts of negligence.

(e) An emergency shelter facility may rely on the minor's written statement containing the grounds on which the minor has capacity to consent to emergency shelter or care.

(f) To the extent of any conflict between this section and Section 32.003, Section 32.003 prevails. (Enacted by Acts 2003, 78th Leg., ch. 192 (H.B. 1364), § 2, effective June 2, 2003.)

Sec. 32.203. Consent by Minor to Housing or Care Provided Through Transitional Living Program.

(a) In this section, "transitional living program" means a residential services program for children provided in a residential child-care facility licensed or certified by the Department of Family and Protective Services under Chapter 42, Human Resources Code, that:

(1) is designed to provide basic life skills training and the opportunity to practice those skills, with a goal of basic life skills development toward independent living; and

(2) is not an independent living program.

(b) A minor may consent to housing or care provided to the minor or the minor's child or children, if any, through a transitional living program if the minor is:

(1) 16 years of age or older and:

(A) resides separate and apart from the minor's parent, managing conservator, or guardian, regardless of whether the parent, managing conservator, or guardian consents to the residence and regardless of the duration of the residence; and

(B) manages the minor's own financial affairs, regardless of the source of income; or

(2) unmarried and is pregnant or is the parent of a child.

(c) Consent by a minor to housing or care under this section is not subject to disaffirmance because of minority.

(d) A transitional living program may, with or without the consent of the parent, managing conservator, or guardian, provide housing or care to the minor or the minor's child or children.

(e) A transitional living program must attempt to notify the minor's parent, managing conservator, or guardian regarding the minor's location.

(f) A transitional living program is not liable for providing housing or care to the minor or the minor's child or children if the minor consents as provided by this section, except that the program is liable for the program's own acts of negligence.

(g) A transitional living program may rely on a minor's written statement containing the grounds on which the minor has capacity to consent to housing or care provided through the program.

(h) To the extent of any conflict between this section and Section 32.003, Section 32.003 prevails.
(Enacted by Acts 2013, 83rd Leg., ch. 587 (S.B. 717), § 1, effective June 14, 2013.)

CHAPTER 34
AUTHORIZATION AGREEMENT FOR NONPARENT RELATIVE

Section

Sec. 34.001. Applicability.

This chapter applies only to:

(1) an authorization agreement between a parent of a child and a person who is the child's:

(A) grandparent;

(B) adult sibling; or

(C) adult aunt or uncle; and

(2) an authorization agreement between a parent of a child and the person with whom the child is placed under a parental child safety placement agreement.

(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 484 (H.B. 848), § 1, effective September 1, 2011.)

Sec. 34.0015. Definition.

In this chapter, "parent" has the meaning assigned by Section 101.024.
(Enacted by Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 6(a) provides:

"(a) Except as provided by Subsections (b) and (c) of this section, the changes in law made by this Act apply only to an authorization agreement executed on or after the effective date of this Act [September 1, 2011]. An authorization agreement executed before that date is governed by the law in effect on the date the authorization agreement was executed, and the former law is continued in effect for that purpose."

Sec. 34.002. Authorization Agreement.

(a) A parent or both parents of a child may enter into an authorization agreement with a relative of the child listed in Section 34.001 to authorize the relative to perform the following acts in regard to the child:

(1) to authorize medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;

(2) to obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate;

(3) to enroll the child in a day-care program or preschool or in a public or private primary or secondary school;

(4) to authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities;

(5) to authorize the child to obtain a learner's permit, driver's license, or state-issued identification card;

(6) to authorize employment of the child; and

(7) to apply for and receive public benefits on behalf of the child.

(b) To the extent of any conflict or inconsistency between this chapter and any other law relating to the eligibility requirements other than parental consent to obtain a service under Subsection (a), the other law controls.

(c) An authorization agreement under this chapter does not confer on a relative of the child listed in Section 34.001 or a relative or other person with whom the child is placed under a child safety placement agreement the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

(d) Only one authorization agreement may be in effect for a child at any time. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect.
(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 484 (H.B. 848), § 2, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 6(b) provides:

"(b) Subsection (d), Section 34.002, Family Code, as added by this Act, applies to an authorization agreement under Chapter 34, Family Code, regardless of whether the agreement was executed before, on, or after the effective date of this Act [September 1, 2011]."

Sec. 34.0021. Authorization Agreement by Parent in Child Protective Services

Case.

A parent may enter into an authorization agreement with a relative or other person with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services to allow the person to perform the acts described by Section 34.002(a) with regard to the child:

(1) during an investigation of abuse or neglect; or

(2) while the department is providing services to the parent.

(Enacted by Acts 2011, 82nd Leg., ch. 484 (H.B. 848), § 3, effective September 1, 2011.)

Sec. 34.003. Contents of Authorization Agreement.

(a) The authorization agreement must contain:

(1) the following information from the relative of the child to whom the parent is giving authorization:

(A) the name and signature of the relative;

(B) the relative's relationship to the child; and

(C) the relative's current physical address and telephone number or the best way to contact the relative;

(2) the following information from the parent:

(A) the name and signature of the parent; and

(B) the parent's current address and telephone number or the best way to contact the parent;

(3) the information in Subdivision (2) with respect to the other parent, if applicable;

(4) a statement that the relative has been given authorization to perform the functions listed in Section 34.002(a) as a result of a voluntary action of the parent and that the relative has voluntarily assumed the responsibility of performing those functions;

(5) statements that neither the parent nor the relative has knowledge that a parent, guardian, custodian, licensed child-placing agency, or other authorized agency asserts any claim or authority inconsistent with the authorization agreement under this chapter with regard to actual physical possession or care, custody, or control of the child;

(6) statements that:

(A) to the best of the parent's and relative's knowledge:

(i) there is no court order or pending suit affecting the parent-child relationship concerning the child;

(ii) there is no pending litigation in any court concerning:

(a) custody, possession, or placement of the child; or

(b) access to or visitation with the child; and

(iii) the court does not have continuing jurisdiction concerning the child; or

(B) the court with continuing jurisdiction concerning the child has given written approval for the execution of the authorization agreement accompanied by the following information:

(i) the county in which the court is located;

(ii) the number of the court; and

(iii) the cause number in which the order was issued or the litigation is pending;

(7) a statement that to the best of the parent's and relative's knowledge there is no current, valid authorization agreement regarding the child;

(8) a statement that the authorization is made in conformance with this chapter;

(9) a statement that the parent and the relative understand that each party to the authorization agreement is required by law to immediately provide to each other party information regarding any change in the party's address or contact information;

(10) a statement by the parent that establishes the circumstances under which the authorization agreement expires, including that the authorization agreement:

(A) is valid until revoked;

(B) continues in effect after the death or during any incapacity of the parent; or

(C) expires on a date stated in the authorization agreement; and

(11) space for the signature and seal of a notary public.

(b) The authorization agreement must contain the following warnings and disclosures:

(1) that the authorization agreement is an important legal document;

(2) that the parent and the relative must read all of the warnings and disclosures before signing the authorization agreement;

(3) that the persons signing the authorization agreement are not required to consult an attorney but are advised to do so;

(4) that the parent's rights as a parent may be adversely affected by placing or leaving the parent's child with another person;

(5) that the authorization agreement does not confer on the relative the rights of a managing or possessory conservator or legal guardian;

(6) that a parent who is a party to the authorization agreement may terminate the authorization agreement and resume custody, possession, care, and control of the child on demand and that

at any time the parent may request the return of the child;

(7) that failure by the relative to return the child to the parent immediately on request may have criminal and civil consequences;

(8) that, under other applicable law, the relative may be liable for certain expenses relating to the child in the relative's care but that the parent still retains the parental obligation to support the child;

(9) that, in certain circumstances, the authorization agreement may not be entered into without written permission of the court;

(10) that the authorization agreement may be terminated by certain court orders affecting the child;

(11) that the authorization agreement does not supersede, invalidate, or terminate any prior authorization agreement regarding the child;

(12) that the authorization agreement is void if a prior authorization agreement regarding the child is in effect and has not expired or been terminated;

(13) that, except as provided by Section 34.005(a-1), the authorization agreement is void unless:

(A) the parties mail a copy of the authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable, to a parent who was not a party to the authorization agreement, if the parent is living and the parent's parental rights have not been terminated, not later than the 10th day after the date the authorization agreement is signed; and

(B) if the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed under Paragraph (A), the parties mail a second copy of the authorization agreement by first class mail or international first class mail, as applicable, to the parent not later than the 45th day after the date the authorization agreement is signed; and

(14) that the authorization agreement does not confer on a relative of the child the right to authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 3, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 6(a) provides:

"(a) Except as provided by Subsections (b) and (c) of this section, the changes in law made by this Act apply only to an authorization agreement executed on or after the effective date of this Act [September 1, 2011]. An authorization agreement executed before that date is governed by the law in effect on the date the authorization agreement was executed, and the former law is continued in effect for that purpose."

Sec. 34.004. Execution of Authorization Agreement.

(a) The authorization agreement must be signed and sworn to before a notary public by the parent and the relative.

(b) A parent may not execute an authorization agreement without a written order by the appropriate court if:

(1) there is a court order or pending suit affecting the parent-child relationship concerning the child;

(2) there is pending litigation in any court concerning:

(A) custody, possession, or placement of the child; or

(B) access to or visitation with the child; or

(3) the court has continuing, exclusive jurisdiction over the child.

(c) An authorization agreement obtained in violation of Subsection (b) is void.

(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009.)

Sec. 34.005. Duties of Parties to Authorization Agreement.

(a) If both parents did not sign the authorization agreement, the parties shall mail a copy of the executed authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable, to the parent who was not a party to the authorization agreement at the parent's last known address not later than the 10th day after the date the authorization agreement is executed if that parent is living and that parent's parental rights have not been terminated. If the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed, the parties shall mail a second copy of the executed authorization agreement by first class mail or international first class mail, as applicable, to the parent at the same address not later than the 45th day after the date the authorization agreement is executed. An authorization agreement is void if the parties fail to comply with this subsection.

(a-1) Subsection (a) does not apply to an authorization agreement if the parent who was not a party to the authorization agreement:

(1) does not have court-ordered possession of or access to the child who is the subject of the authorization agreement; and

(2) has previously committed an act of family violence, as defined by Section 71.004, or assault against the parent who is a party to the authorization agreement, the child who is the subject of the authorization agreement, or another child of the parent who is a party to the authorization agreement, as documented by one or more of the following:

(A) the issuance of a protective order against the parent who was not a party to the authorization agreement as provided under Chapter 85 or under a similar law of another state; or

(B) the conviction of the parent who was not a party to the authorization agreement of an offense under Title 5, Penal Code, or of another criminal offense in this state or in another state an element of which involves a violent act or prohibited sexual conduct.

(b) A party to the authorization agreement shall immediately inform each other party of any change in the party's address or contact information. If a party fails to comply with this subsection, the authorization agreement is voidable by the other party. (Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 4, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 6(a) provides:

"(a) Except as provided by Subsections (b) and (c) of this section, the changes in law made by this Act apply only to an authorization agreement executed on or after the effective date of this Act [September 1, 2011]. An authorization agreement executed before that date is governed by the law in effect on the date the authorization agreement was executed, and the former law is continued in effect for that purpose."

Sec. 34.006. Authorization Voidable.

An authorization agreement is voidable by a party if the other party knowingly:

(1) obtained the authorization agreement by fraud, duress, or misrepresentation; or

(2) made a false statement on the authorization agreement.

(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009.)

Sec. 34.007. Effect of Authorization Agreement.

(a) A person who is not a party to the authorization agreement who relies in good faith on an authorization agreement under this chapter, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by this chapter.

(b) The authorization agreement does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the relative has legal custody of the child.

(c) An authorization agreement executed under this chapter does not confer or affect standing or a right of intervention in any proceeding under Title 5. (Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009.)

Sec. 34.008. Termination of Authorization Agreement.

(a) Except as provided by Subsection (b), an authorization agreement under this chapter terminates if, after the execution of the authorization agreement, a court enters an order:

(1) affecting the parent-child relationship;

(2) concerning custody, possession, or placement of the child;

(3) concerning access to or visitation with the child; or

(4) regarding the appointment of a guardian for the child under Section 676, Texas Probate Code.

(b) An authorization agreement may continue after a court order described by Subsection (a) is entered if the court entering the order gives written permission.

(c) An authorization agreement under this chapter terminates on written revocation by a party to the authorization agreement if the party:

(1) gives each party written notice of the revocation;

(2) files the written revocation with the clerk of the county in which:

(A) the child resides;

(B) the child resided at the time the authorization agreement was executed; or

(C) the relative resides; and

(3) files the written revocation with the clerk of each court:

(A) that has continuing, exclusive jurisdiction over the child;

(B) in which there is a court order or pending suit affecting the parent-child relationship concerning the child;

(C) in which there is pending litigation concerning:

(i) custody, possession, or placement of the child; or

(ii) access to or visitation with the child; or

(D) that has entered an order regarding the appointment of a guardian for the child under Section 676, Texas Probate Code.

(d) If an authorization agreement executed under this chapter does not state when the authorization agreement expires, the authorization agreement is valid until revoked.

(e) If both parents have signed the authorization agreement, either parent may revoke the authorization agreement without the other parent's consent.

(f) Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement.

(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 5, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 897 (S.B. 482), § 6(a) provides:

"(a) Except as provided by Subsections (b) and (c) of this section, the changes in law made by this Act apply only to an authorization agreement executed on or after the effective date of this Act [September 1, 2011]. An authorization agreement executed before that date is governed by the law in effect on the date the authorization agreement was executed, and the former law is continued in effect for that purpose."

Sec. 34.009. Penalty.

(a) A person commits an offense if the person knowingly:

(1) presents a document that is not a valid authorization agreement as a valid authorization agreement under this chapter;

(2) makes a false statement on an authorization agreement; or

(3) obtains an authorization agreement by fraud, duress, or misrepresentation.

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

(Enacted by Acts 2009, 81st Leg., ch. 815 (S.B. 1598), § 1, effective June 19, 2009.)

TITLE 3
JUVENILE JUSTICE CODE

CHAPTER 51
GENERAL PROVISIONS

Section

Sec. 51.02. Definitions.

In this title:

(1) "Aggravated controlled substance felony" means an offense under Subchapter D, Chapter 481, Health and Safety Code, that is punishable by:

(A) a minimum term of confinement that is longer than the minimum term of confinement for a felony of the first degree; or

(B) a maximum fine that is greater than the maximum fine for a felony of the first degree.

(2) "Child" means a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

(3) "Custodian" means the adult with whom the child resides.

(4) "Guardian" means the person who, under court order, is the guardian of the person of the child or the public or private agency with whom the child has been placed by a court.

(5) "Judge" or "juvenile court judge" means the judge of a juvenile court.

(6) "Juvenile court" means a court designated under Section 51.04 of this code to exercise jurisdiction over proceedings under this title.

(7) "Law-enforcement officer" means a peace officer as defined by Article 2.12, Code of Criminal Procedure.

(8) "Nonoffender" means a child who:

(A) is subject to jurisdiction of a court under abuse, dependency, or neglect statutes under Title 5 for reasons other than legally prohibited conduct of the child; or

(B) has been taken into custody and is being held solely for deportation out of the United States.

(8-a) "Nonsecure correctional facility" means a facility described by Section 51.126.

(9) "Parent" means the mother or the father of a child, but does not include a parent whose parental rights have been terminated.

(10) "Party" means the state, a child who is the subject of proceedings under this subtitle, or the child's parent, spouse, guardian, or guardian ad litem.

(11) "Prosecuting attorney" means the county attorney, district attorney, or other attorney who regularly serves in a prosecutory capacity in a juvenile court.

(12) "Referral to juvenile court" means the referral of a child or a child's case to the office or official, including an intake officer or probation officer, designated by the juvenile board to process children within the juvenile justice system.

(13) "Secure correctional facility" means any public or private residential facility, including an alcohol or other drug treatment facility, that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the placement of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense.

(14) "Secure detention facility" means any public or private residential facility that:

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, any nonoffender, or any other individual accused of having committed a criminal offense.

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) truancy under Section 51.03(b)(2);

(B) running away from home under Section 51.03(b)(3);

(C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) failure to attend school under Section 25.094, Education Code;

(E) a violation of standards of student conduct as described by Section 51.03(b)(5);

(F) a violation of a juvenile curfew ordinance or order;

(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(H) a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

(16) "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail; or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

(17) "Valid court order" means a court order entered under Section 54.04 concerning a child adjudicated to have engaged in conduct indicating a need for supervision as a status offender.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1975, 64th Leg., ch. 693 (S.B. 247), § 1, effective September 1, 1975; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 3, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), §§ 6.06, 30.182, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 822 (S.B. 81), § 2, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1013 (S.B. 35), § 13, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1086 (H.B. 1550), §§ 41, 47, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 821 (H.B. 920), § 2.02, effective June 14, 2001; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 1, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1187 (H.B. 3689), § 4.004, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 5, effective September 1, 2013.)

Sec. 51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision.

(a) Delinquent conduct is:

(1) conduct, other than a traffic offense, that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail;

(2) conduct that violates a lawful order of a court under circumstances that would constitute contempt of that court in:

(A) a justice or municipal court; or

(B) a county court for conduct punishable only by a fine;

(3) conduct that violates Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code; or

(4) conduct that violates Section 106.041, Alcoholic Beverage Code, relating to driving under the influence of alcohol by a minor (third or subsequent offense).

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;

(3) the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

(4) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;

(5) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 37.007(c), Education Code;

(6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305;

(7) notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code; or

(8) notwithstanding Subsection (a)(1), conduct that violates Section 43.261, Penal Code.

(c) Nothing in this title prevents criminal proceedings against a child for perjury.

(d) It is an affirmative defense to an allegation of conduct under Subsection (b)(2) that one or more of the absences required to be proven under that subsection have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute conduct under Subsection (b)(2). The burden is on the respondent to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this subsection does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(e) For the purposes of Subsection (b)(3), "child" does not include a person who is married, divorced, or widowed.

(e-1) Notwithstanding any other law, for purposes of conduct described by Subsection (b)(2), "child" means a person who is:

(1) 10 years of age or older;

(2) alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age; and

(3) required to attend school under Section 25.085, Education Code.

(f) Except as provided by Subsection (g), conduct described under Subsection (b)(1) does not constitute conduct indicating a need for supervision unless the child has been referred to the juvenile court under Section 51.08(b).

(g) In a county with a population of less than 100,000, conduct described by Subsection (b)(1)(A) that violates Section 25.094, Education Code, is conduct indicating a need for supervision.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1975, 64th Leg., ch. 693 (S.B. 247), §§ 2-4, effective September 1, 1975; am. Acts 1977, 65th Leg., ch. 340 (H.B. 1146), § 1, effective June 6, 1977; am. Acts 1987, 70th Leg., ch. 511 (H.B. 502), § 1, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 924 (H.B. 1079), § 1, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 955 (S.B. 225), § 1, effective June 19, 1987; am. Acts 1987, 70th Leg., ch. 1040 (S.B. 17), § 20, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 1099 (S.B. 33), § 48, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1100 (S.B. 1046), § 3.02, effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1245 (H.B. 535), §§ 1, 4, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 14 (S.B. 404), § 284(35), effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 7.02, effective August 26, 1991; am. Acts 1991, 72nd Leg., ch. 169 (H.B. 944), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 46 (H.B. 323), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 14.30, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 4, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.07, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1013 (S.B. 35), § 14, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 15, effective June 19, 1997; am. Acts 1997, 75th Leg., ch. 1086 (H.B. 1550), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 11, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 11, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 2, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 3, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 311 (H.B. 558), § 3, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 2, effective

September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1150 (H.B. 2015), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1322 (S.B. 407), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 7.001, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 6, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 311 (H.B. 558), § 6 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2009]. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct violating a penal law of this state occurs before the effective date of this Act if any element of the violation occurred before that date."

Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Acts 2011, 82nd Leg., ch. 1150 (H.B. 2015), § 3 provides: "The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date."

Sec. 51.04. Jurisdiction.

(a) This title covers the proceedings in all cases involving the delinquent conduct or conduct indicating a need for supervision engaged in by a person who was a child within the meaning of this title at the time the person engaged in the conduct, and, except as provided by Subsection (h), the juvenile court has exclusive original jurisdiction over proceedings under this title.

(b) In each county, the county's juvenile board shall designate one or more district, criminal district, domestic relations, juvenile, or county courts or county courts at law as the juvenile court, subject to Subsections (c), (d), and (i).

(c) If the county court is designated as a juvenile court, at least one other court shall be designated as the juvenile court. A county court does not have jurisdiction of a proceeding involving a petition approved by a grand jury under Section 53.045 of this code.

(d) If the judge of a court designated in Subsection (b) or (c) of this section is not an attorney licensed in this state, there shall also be designated an alternate court, the judge of which is an attorney licensed in this state.

(e) A designation made under Subsection (b), (c), or (i) may be changed from time to time by the authorized boards or judges for the convenience of the people and the welfare of children. However, there must be at all times a juvenile court designated for each county. It is the intent of the legislature that in selecting a court to be the juvenile court of each county, the selection shall be made as far as practicable so that the court designated as the juvenile court will be one which is presided over by a judge who has a sympathetic understanding of the problems of child welfare and that changes in the designation of juvenile courts be made only when the best interest of the public requires it.

(f) If the judge of the juvenile court or any alternate judge named under Subsection (b) or (c) is not in the county or is otherwise unavailable, any magistrate may make a determination under Section 53.02(f) or may conduct the detention hearing provided for in Section 54.01.

(g) The juvenile board may appoint a referee to make determinations under Section 53.02(f) or to conduct hearings under this title. The referee shall be an attorney licensed to practice law in this state and shall comply with Section 54.10. Payment of any referee services shall be provided from county funds.

(h) In a county with a population of less than 100,000, the juvenile court has concurrent jurisdiction with the justice and municipal courts over conduct engaged in by a child that violates Section 25.094, Education Code.

(i) If the court designated as the juvenile court under Subsection (b) does not have jurisdiction over proceedings under Subtitle E, Title 5, the county's juvenile board may designate at least one other court that does have jurisdiction over proceedings under Subtitle E, Title 5, as a juvenile court or alternative juvenile court.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1975, 64th Leg., ch. 514, § 1, effective June 19, 1975; am. Acts 1975, 64th Leg., ch. 693 (S.B. 247), § 5 to 7, effective September 1, 1975; am. Acts 1977, 65th Leg., ch. 411 (S.B. 411), § 1, effective June 15, 1977; am. Acts 1987, 70th Leg., ch. 385 (H.B. 682), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 168 (H.B. 793), § 4, effective August 30, 1993; am. Acts 1999, 76th Leg., ch. 232 (H.B. 1269), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 3, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 12, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 186 (S.B. 92), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 186 (S.B. 92), § 8 provides: "The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act [September 1, 2013]. Conduct that occurs before the effective date

of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date."

Sec. 51.08. Transfer from Criminal Court.

(a) If the defendant in a criminal proceeding is a child who is charged with an offense other than perjury, a traffic offense, a misdemeanor punishable by fine only, or a violation of a penal ordinance of a political subdivision, unless the child has been transferred to criminal court under Section 54.02, the court exercising criminal jurisdiction shall transfer the case to the juvenile court, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case, and shall order that the child be taken to the place of detention designated by the juvenile court, or shall release the child to the custody of the child's parent, guardian, or custodian, to be brought before the juvenile court at a time designated by that court.

(b) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense or a violation of a penal ordinance of a political subdivision other than a traffic offense:

(1) except as provided by Subsection (d), shall waive its original jurisdiction and refer the child to juvenile court if:

(A) the complaint pending against the child alleges a violation of a misdemeanor offense under Section 43.261, Penal Code, that is punishable by fine only; or

(B) the child has previously been convicted of:

(i) two or more misdemeanors punishable by fine only other than a traffic offense;

(ii) two or more violations of a penal ordinance of a political subdivision other than a traffic offense; or

(iii) one or more of each of the types of misdemeanors described in Subparagraph (i) or (ii); and

(2) may waive its original jurisdiction and refer the child to juvenile court if the child:

(A) has not previously been convicted of a misdemeanor punishable by fine only other than a traffic offense or a violation of a penal ordinance of a political subdivision other than a traffic offense; or

(B) has previously been convicted of fewer than two misdemeanors punishable by fine only other than a traffic offense or two violations of a penal ordinance of a political subdivision other than a traffic offense.

(c) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense or a violation of a penal ordinance of a political subdivision other than a traffic offense shall notify the juvenile court of the county in which the court is located of the pending complaint and shall furnish to the juvenile court a copy of the final disposition of any matter for which the court does not waive its original jurisdiction under Subsection (b).

(d) A court that has implemented a juvenile case manager program under Article 45.056, Code of Criminal Procedure, may, but is not required to, waive its original jurisdiction under Subsection (b)(1)(B).

(e) A juvenile court may not refuse to accept the transfer of a case brought under Section 25.094, Education Code, for a child described by Subsection (b)(1) if a prosecuting attorney for the court determines under Section 53.012 that the case is legally sufficient under Section 53.01 for adjudication in juvenile court.

(f) A court shall waive original jurisdiction for a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense, and refer the child to juvenile court if the court or another court has previously dismissed a complaint against the child under Section 8.08, Penal Code.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1987, 70th Leg., ch. 1040 (S.B. 17), § 21, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1245 (H.B. 535), § 2, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 169 (H.B. 944), § 2, effective September 1, 1991; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 6, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 650 (H.B. 3010), § 1, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 311 (H.B. 558), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1322 (S.B. 407), § 16, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 13, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 311 (H.B. 558), § 6 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2009]. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct violating a penal law of this state occurs before the effective date of this Act if any element of the violation occurred before that date."

Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law

made by this Act apply only to an offense committed on or after the effective date of this Act [September 1 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

CHAPTER 52
PROCEEDINGS BEFORE AND INCLUDING REFERRAL TO COURT

Section

Sec. 52.01. Taking into Custody; Issuance of Warning Notice.

(a) A child may be taken into custody:

(1) pursuant to an order of the juvenile court under the provisions of this subtitle;

(2) pursuant to the laws of arrest;

(3) by a law-enforcement officer, including a school district peace officer commissioned under Section 37.081, Education Code, if there is probable cause to believe that the child has engaged in:

(A) conduct that violates a penal law of this state or a penal ordinance of any political subdivision of this state;

(B) delinquent conduct or conduct indicating a need for supervision; or

(C) conduct that violates a condition of probation imposed by the juvenile court;

(4) by a probation officer if there is probable cause to believe that the child has violated a condition of probation imposed by the juvenile court;

(5) pursuant to a directive to apprehend issued as provided by Section 52.015; or

(6) by a probation officer if there is probable cause to believe that the child has violated a condition of release imposed by the juvenile court or referee under Section 54.01.

(b) The taking of a child into custody is not an arrest except for the purpose of determining the validity of taking him into custody or the validity of a search under the laws and constitution of this state or of the United States.

(c) A law-enforcement officer authorized to take a child into custody under Subdivisions (2) and (3) of Subsection (a) of this section may issue a warning notice to the child in lieu of taking the child into custody if:

(1) guidelines for warning disposition have been issued by the law-enforcement agency in which the officer works;

(2) the guidelines have been approved by the juvenile board of the county in which the disposition is made;

(3) the disposition is authorized by the guidelines;

(4) the warning notice identifies the child and describes the child's alleged conduct;

(5) a copy of the warning notice is sent to the child's parent, guardian, or custodian as soon as practicable after disposition; and

(6) a copy of the warning notice is filed with the law-enforcement agency and the office or official designated by the juvenile board.

(d) A warning notice filed with the office or official designated by the juvenile board may be used as the basis of further action if necessary.

(e) A law-enforcement officer who has probable cause to believe that a child is in violation of the compulsory school attendance law under Section 25.085, Education Code, may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory school attendance requirements.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1993, 73rd Leg., ch. 115 (H.B. 633), § 2, effective May 11, 1993; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 15, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.08, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 11, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 8, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 9, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1058 (H.B. 2237), § 16, effective September 1, 2007.)

Sec. 52.015. Directive to Apprehend.

(a) On the request of a law-enforcement or probation officer, a juvenile court may issue a directive to apprehend a child if the court finds there is probable cause to take the child into custody under the provisions of this title.

(b) On the issuance of a directive to apprehend, any law-enforcement or probation officer shall take the child into custody.

(c) An order under this section is not subject to appeal.

(Enacted by Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 16, effective January 1, 1996.)

Sec. 52.02. Release or Delivery to Court.

(a) Except as provided by Subsection (c), a person taking a child into custody, without unnecessary delay and without first taking the child to any place other than a juvenile processing office designated under Section 52.025, shall do one of the following:

(1) release the child to a parent, guardian, custodian of the child, or other responsible adult upon that person's promise to bring the child before the juvenile court as requested by the court;

(2) bring the child before the office or official designated by the juvenile board if there is probable cause to believe that the child engaged in delinquent conduct, conduct indicating a need for supervision, or conduct that violates a condition of probation imposed by the juvenile court;

(3) bring the child to a detention facility designated by the juvenile board;

(4) bring the child to a secure detention facility as provided by Section 51.12(j);

(5) bring the child to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment;

(6) dispose of the case under Section 52.03; or

(7) if school is in session and the child is a student, bring the child to the school campus to which the child is assigned if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day.

(b) A person taking a child into custody shall promptly give notice of the person's action and a statement of the reason for taking the child into custody, to:

(1) the child's parent, guardian, or custodian; and

(2) the office or official designated by the juvenile board.

(c) A person who takes a child into custody and who has reasonable grounds to believe that the child has been operating a motor vehicle in a public place while having any detectable amount of alcohol in the child's system may, before complying with Subsection (a):

(1) take the child to a place to obtain a specimen of the child's breath or blood as provided by Chapter 724, Transportation Code; and

(2) perform intoxilyzer processing and videotaping of the child in an adult processing office of a law enforcement agency.

(d) Notwithstanding Section 51.09(a), a child taken into custody as provided by Subsection (c) may submit to the taking of a breath specimen or refuse to submit to the taking of a breath specimen without the concurrence of an attorney, but only if the request made of the child to give the specimen and the child's response to that request is videotaped. A videotape made under this subsection must be maintained until the disposition of any proceeding against the child relating to the arrest is final and be made available to an attorney representing the child during that period.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1991, 72nd Leg., ch. 495 (S.B. 1230), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1013 (S.B. 35), § 15, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1374 (H.B. 1230), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.08, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 5, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 12, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 9, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 286 (H.B. 776), § 1, effective September 1, 2007.)

Sec. 52.026. Responsibility for Transporting Juvenile Offenders.

(a) It shall be the duty of the law enforcement officer who has taken a child into custody to transport the child to the appropriate detention facility or to the school campus to which the child is assigned as provided by Section 52.02(a)(7) if the child is not released to the parent, guardian, or custodian of the child.

(b) If the juvenile detention facility is located outside the county in which the child is taken into custody, it shall be the duty of the law enforcement officer who has taken the child into custody or, if authorized by the commissioners court of the county, the sheriff of that county to transport the child to the appropriate juvenile detention facility unless the child is:

(1) detained in a secure detention facility under Section 51.12(j); or

(2) released to the parent, guardian, or custodian of the child.

(c) On adoption of an order by the juvenile board and approval of the juvenile board's order by record vote of the commissioners court, it shall be the duty of the sheriff of the county in which the child is taken into custody to transport the child to and from all scheduled juvenile court proceedings and appear-

ances and other activities ordered by the juvenile court.

(Enacted by Acts 1993, 73rd Leg., ch. 411 (S.B. 588), § 1, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 1374 (H.B. 1230), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.09, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1082 (H.B. 3355), § 1, effective June 18, 1999; am. Acts 2007, 80th Leg., ch. 286 (H.B. 776), § 2, effective September 1, 2007.)

Sec. 52.04. Referral to Juvenile Court; Notice to Parents.

(a) The following shall accompany referral of a child or a child's case to the office or official designated by the juvenile board or be provided as quickly as possible after referral:

(1) all information in the possession of the person or agency making the referral pertaining to the identity of the child and the child's address, the name and address of the child's parent, guardian, or custodian, the names and addresses of any witnesses, and the child's present whereabouts;

(2) a complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision;

(3) when applicable, a complete statement of the circumstances of taking the child into custody; and

(4) when referral is by an officer of a law-enforcement agency, a complete statement of all prior contacts with the child by officers of that law-enforcement agency.

(b) The office or official designated by the juvenile board may refer the case to a law-enforcement agency for the purpose of conducting an investigation to obtain necessary information.

(c) If the office of the prosecuting attorney is designated by the juvenile court to conduct the preliminary investigation under Section 53.01, the referring entity shall first transfer the child's case to the juvenile probation department for statistical reporting purposes only. On the creation of a statistical record or file for the case, the probation department shall within three business days forward the case to the prosecuting attorney for review under Section 53.01.

(d) On referral of the case of a child who has not been taken into custody to the office or official designated by the juvenile board, the office or official designated by the juvenile board shall promptly give notice of the referral and a statement of the reason for the referral to the child's parent, guardian, or custodian.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1997, 75th Leg., ch. 1091 (H.B. 2065), § 1, effective June 19, 1997; am. Acts 2001, 77th Leg., ch. 136 (H.B. 1790), §§ 1, 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 16, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 11, effective September 1, 2003.)

Sec. 52.041. Referral of Child to Juvenile Court After Expulsion.

(a) A school district that expels a child shall refer the child to juvenile court in the county in which the child resides.

(b) The board of the school district or a person designated by the board shall deliver a copy of the order expelling the student and any other information required by Section 52.04 on or before the second working day after the date of the expulsion hearing to the authorized officer of the juvenile court.

(c) Within five working days of receipt of an expulsion notice under this section by the office or official designated by the juvenile board, a preliminary investigation and determination shall be conducted as required by Section 53.01.

(d) The office or official designated by the juvenile board shall within two working days notify the school district that expelled the child if:

(1) a determination was made under Section 53.01 that the person referred to juvenile court was not a child within the meaning of this title;

(2) a determination was made that no probable cause existed to believe the child engaged in delinquent conduct or conduct indicating a need for supervision;

(3) no deferred prosecution or formal court proceedings have been or will be initiated involving the child;

(4) the court or jury finds that the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case has been dismissed with prejudice; or

(5) the child was adjudicated but no disposition was or will be ordered by the court.

(e) In any county where a juvenile justice alternative education program is operated, no student shall be expelled without written notification by the board of the school district or its designated agent to the juvenile board's designated representative. The notification shall be made not later than two business days following the board's determination that the student is to be expelled. Failure to timely notify the designated representative of the juvenile board shall result in the child's duty to continue attending the school district's educational program, which shall be provided to that child until such time as the

notification to the juvenile board's designated representative is properly made.
(Enacted by Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 20, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 1015 (S.B. 133), § 16, effective June 19, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 17, effective September 1, 2001.)

CHAPTER 53
PROCEEDINGS PRIOR TO JUDICIAL PROCEEDINGS

Section

Sec. 53.01. Preliminary Investigation and Determinations; Notice to Parents.

(a) On referral of a person believed to be a child or on referral of the person's case to the office or official designated by the juvenile board, the intake officer, probation officer, or other person authorized by the board shall conduct a preliminary investigation to determine whether:

(1) the person referred to juvenile court is a child within the meaning of this title; and

(2) there is probable cause to believe the person:

(A) engaged in delinquent conduct or conduct indicating a need for supervision; or

(B) is a nonoffender who has been taken into custody and is being held solely for deportation out of the United States.

(b) If it is determined that the person is not a child or there is no probable cause, the person shall immediately be released.

(c) When custody of a child is given to the office or official designated by the juvenile board, the intake officer, probation officer, or other person authorized by the board shall promptly give notice of the whereabouts of the child and a statement of the reason the child was taken into custody to the child's parent, guardian, or custodian unless the notice given under Section 52.02(b) provided fair notice of the child's present whereabouts.

(d) Unless the juvenile board approves a written procedure proposed by the office of prosecuting attorney and chief juvenile probation officer which provides otherwise, if it is determined that the person is a child and, regardless of a finding of probable cause, or a lack thereof, there is an allegation that the child engaged in delinquent conduct of the grade of felony, or conduct constituting a misdemeanor offense involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or prohibited weapon, as described by Section 46.05, Penal Code, the case shall be promptly forwarded to the office of the prosecuting attorney, accompanied by:

(1) all documents that accompanied the current referral; and

(2) a summary of all prior referrals of the child to the juvenile court, juvenile probation department, or a detention facility.

(e) If a juvenile board adopts an alternative referral plan under Subsection (d), the board shall register the plan with the Texas Juvenile Probation Commission.

(f) A juvenile board may not adopt an alternate referral plan that does not require the forwarding of a child's case to the prosecuting attorney as provided by Subsection (d) if probable cause exists to believe that the child engaged in delinquent conduct that violates Section 19.03, Penal Code (capital murder), or Section 19.02, Penal Code (murder).
(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 21, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 1374 (H.B. 1230), § 5, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 18, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 12, effective September 1, 2003.)

Sec. 53.012. Review by Prosecutor.

(a) The prosecuting attorney shall promptly review the circumstances and allegations of a referral made under Section 53.01 for legal sufficiency and the desirability of prosecution and may file a petition without regard to whether probable cause was found under Section 53.01.

(b) If the prosecuting attorney does not file a petition requesting the adjudication of the child referred to the prosecuting attorney, the prosecuting attorney shall:

(1) terminate all proceedings, if the reason is for lack of probable cause; or

(2) return the referral to the juvenile probation department for further proceedings.

(c) The juvenile probation department shall promptly refer a child who has been returned to the department under Subsection (b)(2) and who fails or refuses to participate in a program of the department to the prosecuting attorney for review of the child's case and determination of whether to file a petition.
(Enacted by Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 22, effective January 1, 1996.)

CHAPTER 54
JUDICIAL PROCEEDINGS

Sec. 54.021. County, Justice, or Municipal Court: Truancy.

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of 1.75 million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is 12 years of age or older and is alleged to have engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

(b) A county, justice, or municipal court may exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where:

(1) the person is 12 years of age or older;

(2) the juvenile court has waived its original jurisdiction under this section; and

(3) a complaint is filed by the appropriate authority in the county, justice, or municipal court charging an offense under Section 25.094, Education Code.

(c) A proceeding in a county, justice, or municipal court on a complaint charging an offense under Section 25.094, Education Code, is governed by Chapter 45, Code of Criminal Procedure.

(d) Notwithstanding any other law, the costs assessed in a case filed in or transferred to a constitutional county court for an offense under Section 25.093 or 25.094, Education Code, must be the same as the costs assessed for a case filed in a justice court for an offense under Section 25.093 or 25.094, Education Code.

(e) The proceedings before a constitutional county court related to an offense under Section 25.093 or 25.094, Education Code, may be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

(f) to (h) [Repealed by Acts 2001, 77th Leg., ch. 1514, § 19(b), effective September 1, 2001].

(Enacted by Acts 1991, 72nd Leg., ch. 741 (S.B. 1037), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 358 (H.B. 681), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 24, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 35, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 865 (H.B. 1606), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 76 (H.B. 688), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), §§ 14, 19(b), effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 12, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 3, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 3, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 7.002, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 6(b) provides: "(b) The change in law made by this Act to Section 54.021, Family Code, applies only to conduct indicating a need for supervision as described in Section 51.03(b)(2), Family Code, engaged in by an individual on or after the effective date of this Act [September 1, 2011]. Conduct engaged in before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Sec. 54.0402. Dispositional Order for Failure to Attend School.

A dispositional order regarding conduct under Section 51.03(b)(2) is effective for the period specified by the court in the order but may not extend beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

(Enacted by Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 4, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Sec. 54.041. Orders Affecting Parents and Others.

(a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision and the juvenile court has made a finding that the child is in need of rehabilitation or that the protection of the public or the child requires that disposition be made, the juvenile court, on notice by any reasonable method to all persons affected, may:

(1) order any person found by the juvenile court to have, by a wilful act or omission, contributed to, caused, or encouraged the child's delinquent conduct or conduct indicating a need for supervision to do any act that the juvenile court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the juvenile court determines to be injurious to the welfare of the child;

(2) enjoin all contact between the child and a person who is found to be a contributing cause of the child's delinquent conduct or conduct indicating a need for supervision;

(3) after notice and a hearing of all persons affected order any person living in the same household with the child to participate in social or psychological counseling to assist in the rehabilitation of the child and to strengthen the child's family environment; or

(4) after notice and a hearing of all persons affected order the child's parent or other person responsible for the child's support to pay all or part of the reasonable costs of treatment programs in which the child is required to participate during the period of probation if the court finds the child's parent or person responsible for the child's support is able to pay the costs.

(b) If a child is found to have engaged in delinquent conduct or conduct indicating a need for supervision arising from the commission of an offense in which property damage or loss or personal injury occurred, the juvenile court, on notice to all persons affected and on hearing, may order the child or a parent to make full or partial restitution to the victim of the offense. The program of restitution must promote the rehabilitation of the child, be appropriate to the age and physical, emotional, and mental abilities of the child, and not conflict with the child's schooling. When practicable and subject to court supervision, the court may approve a restitution program based on a settlement between the child and the victim of the offense. An order under this subsection may provide for periodic payments by the child or a parent of the child for the period specified in the order but except as provided by Subsection (h), that period may not extend past the date of the 18th birthday of the child or past the date the child is no longer enrolled in an accredited secondary school in a program leading toward a high school diploma, whichever date is later.

(c) Restitution under this section is cumulative of any other remedy allowed by law and may be used in addition to other remedies; except that a victim of an offense is not entitled to receive more than actual damages under a juvenile court order.

(d) A person subject to an order proposed under Subsection (a) of this section is entitled to a hearing on the order before the order is entered by the court.

(e) An order made under this section may be enforced as provided by Section 54.07 of this code.

(f) If a child is found to have engaged in conduct indicating a need for supervision described under Section 51.03(b)(2) or (g), the court may order the child's parents or guardians to attend a program described by Section 25.093(f), Education Code, if a program is available.

(g) On a finding by the court that a child's parents or guardians have made a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision and that, despite the parents' or guardians' efforts, the child continues to engage in such conduct, the court shall waive any requirement for restitution that may be imposed on a parent under this section.

(h) If the juvenile court places the child on probation in a determinate sentence proceeding initiated under Section 53.045 and transfers supervision on the child's 19th birthday to a district court for placement on community supervision, the district court shall require the payment of any unpaid restitution as a condition of the community supervision. The liability of the child's parent for restitution may not be extended by transfer to a district court for supervision.

(Enacted by Acts 1975, 64th Leg., ch. 693 (S.B. 247), § 18, effective September 1, 1975; am. Acts 1979, 66th Leg., ch. 154 (H.B. 244), § 2, effective September 1, 1979; am. Acts 1983, 68th Leg., ch. 110 (S.B. 99), § 1, effective August 29, 1983; am. Acts 1983, 68th Leg., ch. 565 (S.B. 669), § 3, effective September 1, 1983; am. Acts 1989, 71st Leg., ch. 1170 (H.B. 969), § 3, effective June 16, 1989; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 39, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.09, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 24, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1514 (S.B. 1432), § 15, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 19, effective September 1, 2003; am. Acts 2011, 82nd

Leg., ch. 438 (S.B. 1208), § 4, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 438 (S.B. 1208), § 7 provides: "Except as otherwise provided by this Act, the changes in law made by this Act in amending a provision of Title 3, Family Code, apply only to conduct that violates a penal law and that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that violates a penal law and that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct violating a penal law occurs before the effective date of this Act if every element of the violation occurred before that date."

Sec. 54.05. Hearing to Modify Disposition.

(a) Except as provided by Subsection (a-1), any disposition, except a commitment to the Texas Youth Commission, may be modified by the juvenile court as provided in this section until:

(1) the child reaches:

(A) the child's 18th birthday; or

(B) the child's 19th birthday, if the child was placed on determinate sentence probation under Section 54.04(q); or

(2) the child is earlier discharged by the court or operation of law.

(a-1) A disposition regarding conduct under Section 51.03(b)(2) may be modified by the juvenile court as provided by this section until the expiration of the period described by Section 54.0402.

(b) **[2 Versions: Effective Until December 1, 2013]** Except as provided by Subsection (a-1), any disposition, except a commitment to the Texas Youth Commission, may be modified by the juvenile court as provided in this section until:

(b) **[2 Versions: Effective December 1, 2013]** Except for a commitment to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility under Section 54.04011, a disposition under Section 54.0402, or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's 18th birthday.

(c) There is no right to a jury at a hearing to modify disposition.

(d) A hearing to modify disposition shall be held on the petition of the child and his parent, guardian, guardian ad litem, or attorney, or on the petition of the state, a probation officer, or the court itself. Reasonable notice of a hearing to modify disposition shall be given to all parties.

(e) After the hearing on the merits or facts, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of other witnesses. On or before the second day before the date of the hearing to modify disposition, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in deciding whether to modify disposition. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(f) **[2 Versions: Effective Until December 1, 2013]** Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Youth Commission with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

(f) **[2 Versions: Effective December 1, 2013]** Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony may be modified so as to commit the child to the Texas Juvenile Justice Department or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Juvenile Justice Department or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by, as applicable, Section 54.04(d)(3)

or Section 152.0016(g), Human Resources Code, if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

(g) Except as provided by Subsection (j), a disposition based solely on a finding that the child engaged in conduct indicating a need for supervision may not be modified to commit the child to the Texas Youth Commission. A new finding in compliance with Section 54.03 must be made that the child engaged in delinquent conduct that meets the requirements for commitment under Section 54.04.

(h) A hearing shall be held prior to placement in a post-adjudication secure correctional facility for a period longer than 30 days or commitment to the Texas Youth Commission as a modified disposition. In other disposition modifications, the child and the child's parent, guardian, guardian ad litem, or attorney may waive hearing in accordance with Section 51.09.

(i) The court shall specifically state in the order its reasons for modifying the disposition and shall furnish a copy of the order to the child.

(j) **[2 Versions: Effective Until December 1, 2013]** If, after conducting a hearing to modify disposition without a jury, the court finds by a preponderance of the evidence that a child violated a reasonable and lawful condition of probation ordered under Section 54.04(q), the court may modify the disposition to commit the child to the Texas Youth Commission under Section 54.04(d)(3) for a term that does not exceed the original sentence assessed by the court or jury.

(j) **[2 Versions: Effective December 1, 2013]** If, after conducting a hearing to modify disposition without a jury, the court finds by a preponderance of the evidence that a child violated a reasonable and lawful condition of probation ordered under Section 54.04(q), the court may modify the disposition to commit the child to the Texas Juvenile Justice Department under Section 54.04(d)(3) or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, for a term that does not exceed the original sentence assessed by the court or jury.

(k) [Repealed by Acts 2007, 80th Leg., ch. 263 (S.B. 103), § 64(2), effective June 8, 2007.]

(*l*) The court may extend a period of probation under this section at any time during the period of probation or, if a motion for revocation or modification of probation is filed before the period of supervision ends, before the first anniversary of the date on which the period of probation expires.

(m) **[2 Versions: Effective Until December 1, 2013]** If the court places the child on probation outside the child's home or commits the child to the Texas Youth Commission, the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

(m) **[2 Versions: Effective December 1, 2013]** If the court places the child on probation outside the child's home or commits the child to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

(Enacted by Acts 1973, 63rd Leg., ch. 544 (S.B. 111), § 1, effective September 1, 1973; am. Acts 1979, 66th Leg., ch. 743 (H.B. 1109), § 1, effective August 27, 1979; am. Acts 1983, 68th Leg., ch. 44 (S.B. 422), art. 1 § 4, effective April 26, 1983; am. Acts 1985, 69th Leg., ch. 45 (S.B. 120), § 3, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 385 (H.B. 682), § 10, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 557 (H.B. 653), § 3, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 262 (H.B. 327), § 42, effective January 1, 1996; am. Acts 1999, 76th Leg., ch. 1448 (H.B. 2947), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 11, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), §§ 27, 28, effective September 1, 2001; am. Acts 2001, 77th

Leg., ch. 1420 (H.B. 2812), § 5.002, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 21, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 15, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 263 (S.B. 103), §§ 9, 64(2), effective June 8, 2007; am. Acts 2011, 82nd Leg., ch. 438 (S.B. 1208), § 5, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 5, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 20, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1323 (S.B. 511), § 4, effective December 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 438 (S.B. 1208), § 7 provides: "Except as otherwise provided by this Act, the changes in law made by this Act in amending a provision of Title 3, Family Code, apply only to conduct that violates a penal law and that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that violates a penal law and that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct violating a penal law occurs before the effective date of this Act if every element of the violation occurred before that date."

Acts 2011, 82nd Leg., ch. 1098 (S.B. 1489), § 17 provides: "The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2011]. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the violation occurs before that date."

Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 40(e) provides: "Sections 54.04(b), 54.05(e), and 54.11(d), Family Code, as amended by this Act, apply only to conduct that occurs on or after the effective date of this Act [September 1, 2013]. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date."

Acts 2013, 83rd Leg., ch. 1323 (S.B. 511), § 12 provides: "The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act [December 1, 2013]. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date."

CHAPTER 58
RECORDS; JUVENILE JUSTICE INFORMATION SYSTEM

Subchapter A. Records

Section

SUBCHAPTER A
RECORDS

Sec. 58.0051. Interagency Sharing of Educational Records.

(a) In this section:

(1) "Educational records" means records in the possession of a primary or secondary educational institution that contain information relating to a student, including information relating to the student's:

(A) identity;

(B) special needs;

(C) educational accommodations;

(D) assessment or diagnostic test results;

(E) attendance records;

(F) disciplinary records;

(G) medical records; and

(H) psychological diagnoses.

(2) "Juvenile service provider" means a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile. The term includes:

(A) a state or local juvenile justice agency as defined by Section 58.101;

(B) health and human services agencies, as defined by Section 531.001, Government Code, and the Health and Human Services Commission;

(C) the Department of Public Safety;

(D) the Texas Education Agency;

(E) an independent school district;

(F) a juvenile justice alternative education program;

(G) a charter school;

(H) a local mental health or mental retardation authority;

(I) a court with jurisdiction over juveniles;

(J) a district attorney's office;

(K) a county attorney's office; and

(L) a children's advocacy center established under Section 264.402.

(3) "Student" means a person who:

(A) is registered or in attendance at a primary or secondary educational institution; and

(B) is younger than 18 years of age.

(b) At the request of a juvenile service provider, an independent school district or a charter school shall disclose to the juvenile service provider confidential information contained in the student's educational records if the student has been:

(1) taken into custody under Section 52.01; or

(2) referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision.

(c) An independent school district or charter school that discloses confidential information to a juvenile service provider under Subsection (b) may not destroy a record of the disclosed information before the seventh anniversary of the date the information is disclosed.

(d) An independent school district or charter school shall comply with a request under Subsection (b) regardless of whether other state law makes that information confidential.

(e) A juvenile service provider that receives confidential information under this section shall:

(1) certify in writing that the juvenile service provider receiving the confidential information has agreed not to disclose it to a third party, other than another juvenile service provider; and

(2) use the confidential information only to:

(A) verify the identity of a student involved in the juvenile justice system; and

(B) provide delinquency prevention or treatment services to the student.

(f) A juvenile service provider may establish an internal protocol for sharing information with other juvenile service providers as necessary to efficiently and promptly disclose and accept the information. The protocol may specify the types of information that may be shared under this section without violating federal law, including any federal funding requirements. A juvenile service provider may enter into a memorandum of understanding with another juvenile service provider to share information according to the juvenile service provider's protocols. A juvenile service provider shall comply with this section regardless of whether the juvenile service provider establishes an internal protocol or enters into a memorandum of understanding under this subsection unless compliance with this section violates federal law.

(g) This section does not affect the confidential status of the information being shared. The information may be released to a third party only as directed by a court order or as otherwise authorized by law. Personally identifiable information disclosed to a juvenile service provider under this section is not subject to disclosure to a third party under Chapter 552, Government Code.

(h) A juvenile service provider that requests information under this section shall pay a fee to the disclosing juvenile service provider in the same amounts charged for the provision of public information under Subchapter F, Chapter 552, Government Code, unless:

(1) a memorandum of understanding between the requesting provider and the disclosing provider:

(A) prohibits the payment of a fee;

(B) provides for the waiver of a fee; or

(C) provides an alternate method of assessing a fee;

(2) the disclosing provider waives the payment of the fee; or

(3) disclosure of the information is required by law other than this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 217 (H.B. 1749), § 1, effective May 24, 1999; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 16, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 493 (S.B. 1106), § 2, effective June 17, 2011.)

Sec. 58.0072. Dissemination of Juvenile Justice Information.

(a) Except as provided by this section, juvenile justice information collected and maintained by the Texas Juvenile Probation Commission for statistical and research purposes is confidential information for the use of the commission and may not be disseminated by the commission.

(b) Juvenile justice information consists of information of the type described by Section 58.104, including statistical data in any form or medium collected, maintained, or submitted to the Texas Juvenile Justice Department under Section 221.007, Human Resources Code.

(c) The Texas Juvenile Probation Commission may grant the following entities access to juvenile justice information for research and statistical purposes or for any other purpose approved by the commission:

(1) criminal justice agencies as defined by Section 411.082, Government Code;

(2) the Texas Education Agency, as authorized under Section 37.084, Education Code;

(3) any agency under the authority of the Health and Human Services Commission; or

(4) a public or private university.

(d) The Texas Juvenile Probation Commission may grant the following entities access to juvenile justice information only for a purpose beneficial to and approved by the commission to:

(1) a person working on a research or statistical project that:

(A) is funded in whole or in part by state or federal funds; and

(B) meets the requirements of and is approved by the commission; or

(2) a governmental entity that has a specific agreement with the commission, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which the information is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated.

(e) The Texas Juvenile Probation Commission shall grant access to juvenile justice information for legislative purposes under Section 552.008, Government Code.

(f) The Texas Juvenile Probation Commission may not release juvenile justice information in identifiable form, except for information released under Subsection (c)(1), (2), or (3) or under the terms of an agreement entered into under Subsection (d)(2). For purposes of this subsection, identifiable information means information that contains a juvenile offender's name or other personal identifiers or that can, by virtue of sample size or other factors, be reasonably interpreted as referring to a particular juvenile offender.

(g) The Texas Juvenile Probation Commission is not required to release or disclose juvenile justice information to any person not identified under this section.

(Enacted by Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 17, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 18, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 85 (S.B. 653), § 3.009, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § (a) and (b) provide:

"(a) Except as otherwise provided by this section, this Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2007]. Conduct violating the penal law of this state occurs on or after the effective date of this Act if any element of the violation occurs on or after that date.

(b) Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose."

Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 45(a) to (c) provide:

"(a) This Act applies only to conduct that occurs on or after the effective date of this Act [September 1, 2007]. Conduct violating the penal law of this state occurs on or after the effective date of this Act if any element of the violation occurs on or after that date.

(b) Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

(c) This Act applies only to an order by a juvenile court rendered on or after the effective date of this Act. An appeal of an order rendered before the effective date of this Act is governed by the law in effect at the time the order was rendered, and that law is continued in effect for that purpose."

Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 46 provides: "This Act applies to information and documents relating to juvenile court cases without regard to whether the conduct that is the basis of the case occurred before, on, or after the effective date of this Act [September 1, 2007]."

TITLE 5
THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

SUBTITLE A
GENERAL PROVISIONS

CHAPTER 101
DEFINITIONS

Section

Sec. 101.003. Child or Minor; Adult.

(a) "Child" or "minor" means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

(b) In the context of child support, "child" includes a person over 18 years of age for whom a person may be obligated to pay child support.

(c) "Adult" means a person who is not a child.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

SUBTITLE B
SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

CHAPTER 151
RIGHTS AND DUTIES IN PARENT-CHILD RELATIONSHIP

Section

Sec. 151.001. Rights and Duties of Parent.

(a) A parent of a child has the following rights and duties:

(1) the right to have physical possession, to direct the moral and religious training, and to designate the residence of the child;

(2) the duty of care, control, protection, and reasonable discipline of the child;

(3) the duty to support the child, including

providing the child with clothing, food, shelter, medical and dental care, and education;

(4) the duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child, including the right as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;

(5) except as provided by Section 264.0111, the right to the services and earnings of the child;

(6) the right to consent to the child's marriage, enlistment in the armed forces of the United States, medical and dental care, and psychiatric, psychological, and surgical treatment;

(7) the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;

(8) the right to receive and give receipt for payments for the support of the child and to hold or disburse funds for the benefit of the child;

(9) the right to inherit from and through the child;

(10) the right to make decisions concerning the child's education; and

(11) any other right or duty existing between a parent and child by virtue of law.

(b) The duty of a parent to support his or her child exists while the child is an unemancipated minor and continues as long as the child is fully enrolled in a secondary school in a program leading toward a high school diploma and complies with attendance requirements described by Section 154.002(a)(2).

(c) A parent who fails to discharge the duty of support is liable to a person who provides necessaries to those to whom support is owed.

(d) The rights and duties of a parent are subject to:

(1) a court order affecting the rights and duties;

(2) an affidavit of relinquishment of parental rights; and

(3) an affidavit by the parent designating another person or agency to act as managing conservator.

(e) Only the following persons may use corporal punishment for the reasonable discipline of a child:

(1) a parent or grandparent of the child;

(2) a stepparent of the child who has the duty of control and reasonable discipline of the child; and

(3) an individual who is a guardian of the child and who has the duty of control and reasonable discipline of the child.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 23, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 821 (H.B. 920), § 2.13, effective June 14, 2001 (renumbered from Sec. 151.003); am. Acts 2001, 77th Leg., ch. 964 (S.B. 1683), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1036 (H.B. 913), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 924 (H.B. 383), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 972 (S.B. 228), § 6, effective September 1, 2007.)

CHAPTER 153
CONSERVATORSHIP, POSSESSION, AND ACCESS

Subchapter G. Appointment of Nonparent As Conservator

SUBCHAPTER G
APPOINTMENT OF NONPARENT AS CONSERVATOR

Sec. 153.377. Access to Child's Records.

A nonparent possessory conservator has the right of access to medical, dental, psychological, and educational records of the child to the same extent as the managing conservator, without regard to whether the right is specified in the order.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

SUBTITLE E
PROTECTION OF THE CHILD

CHAPTER 261
INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT

Subchapter A. General Provisions

Subchapter B. Report of Abuse or Neglect; Immunities

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 261.001. Definitions.

In this chapter:

(1) "Abuse" includes the following acts or omissions by a person:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including conduct that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(a)(2), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;

(I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

(J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;

(K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code; or

(L) knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections.

(2) "Department" means the Department of Family and Protective Services.

(3) "Designated agency" means the agency designated by the court as responsible for the protection of children.

(4) "Neglect" includes:

(A) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(B) the following acts or omissions by a person:

(i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

(iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or

(C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

(5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

(A) a parent, guardian, managing or possessory conservator, or foster parent of the child;

(B) a member of the child's family or household as defined by Chapter 71;

(C) a person with whom the child's parent cohabits;

(D) school personnel or a volunteer at the child's school; or

(E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.

(6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.

(7) "Board" means the Board of Protective and Regulatory Services.

(8) "Born addicted to alcohol or a controlled substance" means a child:

(A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and

(B) who, after birth as a result of the mother's use of the controlled substance or alcohol:

(i) experiences observable withdrawal from the alcohol or controlled substance;

(ii) exhibits observable or harmful effects in the child's physical appearance or functioning; or

(iii) exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

(9) "Severe emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment

that substantially interferes with or limits a person's role or ability to function in family, school, or community activities.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 86, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 10, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 63, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(26), effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 59 (H.B. 360), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.11, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), § 3.32, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 4.03, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1142 (S.B. 44), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 7.01 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 261.002. Central Registry.

(a) The department shall establish and maintain in Austin a central registry of reported cases of child abuse or neglect.

(b) The department may adopt rules necessary to carry out this section. The rules shall provide for cooperation with local child service agencies, including hospitals, clinics, and schools, and cooperation with other states in exchanging reports to effect a national registration system.

(c) The department may enter into agreements with other states to allow for the exchange of reports of child abuse and neglect in other states' central registry systems. The department shall use information obtained under this subsection in performing the background checks required under Section 42.056, Human Resources Code. The department shall cooperate with federal agencies and shall provide information and reports of child abuse and neglect to the appropriate federal agency that maintains the national registry for child abuse and neglect, if a national registry exists.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.12, effective September 1, 2005.)

Sec. 261.003. Application to Students in School for Deaf or School for Blind and Visually Impaired.

This chapter applies to the investigation of a report of abuse or neglect of a student, without regard to the age of the student, in the Texas School for the Deaf or the Texas School for the Blind and Visually Impaired.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 261.004. Statistics of Abuse and Neglect of Children.

(a) The department shall prepare and disseminate statistics by county relating to the department's activities under this subtitle and include the information specified in Subsection (b) in an annual report available to the public.

(b) The department shall report the following information:

(1) the number of initial phone calls received by the department alleging abuse and neglect;

(2) the number of children reported to the department as having been abused and neglected;

(3) the number of reports received by the department alleging abuse or neglect and assigned by the department for investigation;

(4) of the children to whom Subdivision (2) applies:

(A) the number for whom the report was substantiated;

(B) the number for whom the report was unsubstantiated;

(C) the number for whom the report was determined to be false;

(D) the number who did not receive services from the department under a state or federal program;

(E) the number who received services, including preventative services, from the department under a state or federal program; and

(F) the number who were removed from the child's home during the preceding year;

(5) the number of families in which the child was not removed, but the child or family received services from the department;

(6) the number of children who died during the preceding year as a result of child abuse or neglect;

(7) of the children to whom Subdivision (6) applies, the number who were in foster care at the time of death;

(8) the number of child protective services workers responsible for report intake, assessment, or investigation;

(9) the response time by the department with respect to conducting an initial investigation of a report of child abuse or neglect;

(10) the response time by the department with respect to commencing services to families and children for whom an allegation of abuse or neglect has been made;

(11) the number of children who were returned to their families or who received family preservation services and who, before the fifth anniversary of the date of return or receipt, were the victims of substantiated reports of child abuse or neglect, including abuse or neglect resulting in the death of the child;

(12) the number of cases pursued by the department in each stage of the judicial process, including civil and criminal proceedings and the results of each proceeding;

(13) the number of children for whom a person was appointed by the court to represent the best interests of the child and the average number of out-of-court contacts between the person and the child; and

(14) the number of children who suffer from a severe emotional disturbance and for whom the department is appointed managing conservator because a person voluntarily relinquished custody of the child solely to obtain mental health services for the child.

(c) The department shall compile the information specified in Subsection (b) for the preceding year in a report to be submitted to the legislature and the general public not later than February 1 of each year.

(Enacted by Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 64, effective September 1, 1997; am. Acts 2013, 83rd Leg., ch. 1142 (S.B. 44), § 2, effective September 1, 2013.)

SUBCHAPTER B
REPORT OF ABUSE OR NEGLECT; IMMUNITIES

Sec. 261.101. Persons Required to Report; Time to Report.

(a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001 or 261.401, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(b-1) In addition to the duty to make a report under Subsection (a) or (b), a person or professional shall make a report in the manner required by Subsection (a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

(1) another child; or

(2) an elderly or disabled person as defined by Section 48.002, Human Resources Code.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

(1) as provided by Section 261.201; or

(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 87, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 162 (H.B. 1929), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 11, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 65, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.29, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B.

1622), § 21, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 5.003, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 27, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 395 (S.B. 152), § 4, effective June 14, 2013.)

Sec. 261.102. Matters to Be Reported.

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 88, effective September 1, 1995.)

Sec. 261.103. Report Made to Appropriate Agency.

(a) Except as provided by Subsections (b) and (c) and Section 261.405, a report shall be made to:

(1) any local or state law enforcement agency;

(2) the department;

(3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or

(4) the agency designated by the court to be responsible for the protection of children.

(b) A report may be made to the Texas Youth Commission instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the commission concerning the child's alleged abuse of another child.

(c) Notwithstanding Subsection (a), a report, other than a report under Subsection (a)(3) or Section 261.405, must be made to the department if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 89, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 24, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 46, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 213 (H.B. 1970), § 1, effective September 1, 2005.)

Sec. 261.104. Contents of Report.

The person making a report shall identify, if known:

(1) the name and address of the child;

(2) the name and address of the person responsible for the care, custody, or welfare of the child; and

(3) any other pertinent information concerning the alleged or suspected abuse or neglect.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 90, effective September 1, 1995.)

Sec. 261.105. Referral of Report by Department or Law Enforcement.

(a) All reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department or the designated agency.

(b) The department or designated agency shall immediately notify the appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.

(c) In addition to notifying a law enforcement agency, if the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency for investigation.

(c-1) Notwithstanding Subsections (b) and (c), if a report under this section relates to a child with mental retardation receiving services in a state supported living center as defined by Section 531.002, Health and Safety Code, or the ICF-MR component of the Rio Grande State Center, the department shall proceed with the investigation of the report as provided by Section 261.404.

(d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to a law enforcement agency for further investigation. If the department determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the school district in which the employee is employed about the investigation.

(e) In cooperation with the department, the Texas Youth Commission by rule shall adopt guidelines for identifying a report made to the commission under Section 261.103(b) that is appropriate to refer to the department or a law enforcement agency for investigation. Guidelines adopted under this subsection must require the commission to consider the severity and immediacy of the alleged abuse or neglect of the child victim.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th

Leg., ch. 1022 (S.B. 359), § 66, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 25, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 374 (S.B. 1488), § 3, effective June 18, 2003; am. Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 4, effective June 11, 2009.)

Sec. 261.1055. Notification of District Attorneys.

(a) A district attorney may inform the department or designated agency that the district attorney wishes to receive notification of some or all reports of suspected abuse or neglect of children who were in the county at the time the report was made or who were in the county at the time of the alleged abuse or neglect.

(b) If the district attorney makes the notification under this section, the department or designated agency shall, on receipt of a report of suspected abuse or neglect, immediately notify the district attorney as requested and the department or designated agency shall forward a copy of the reports to the district attorney on request.

(Enacted by Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 67, effective September 1, 1997.)

Sec. 261.106. Immunities.

(a) A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

(b) Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 91, effective September 1, 1995.)

Sec. 261.107. False Report; Criminal Penalty; Civil Penalty.

(a) A person commits an offense if, with the intent to deceive, the person knowingly makes a report as provided in this chapter that is false. An offense under this subsection is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree.

(b) A finding by a court in a suit affecting the parent-child relationship that a report made under this chapter before or during the suit was false or lacking factual foundation may be grounds for the court to modify an order providing for possession of or access to the child who was the subject of the report by restricting further access to the child by the person who made the report.

(c) The appropriate county prosecuting attorney shall be responsible for the prosecution of an offense under this section.

(d) The court shall order a person who is convicted of an offense under Subsection (a) to pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report.

(e) A person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of $1,000. The attorney general shall bring an action to recover a civil penalty authorized by this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 92, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 2, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 68, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.30, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), §§ 1.13, 1.14(a), effective September 1, 2005.)

Sec. 261.108. Frivolous Claims Against Person Reporting.

(a) In this section:

(1) "Claim" means an action or claim by a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, requesting recovery of damages.

(2) "Defendant" means a party against whom a claim is made.

(b) A court shall award a defendant reasonable attorney's fees and other expenses related to the defense of a claim filed against the defendant for damages or other relief arising from reporting or assisting in the investigation of a report under this chapter or participating in a judicial proceeding resulting from the report if:

(1) the court finds that the claim is frivolous, unreasonable, or without foundation because the

defendant is immune from liability under Section 261.106; and

(2) the claim is dismissed or judgment is rendered for the defendant.

(c) To recover under this section, the defendant must, at any time after the filing of a claim, file a written motion stating that:

(1) the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the defendant requests the court to award reasonable attorney's fees and other expenses related to the defense of the claim.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 261.109. Failure to Report; Penalty.

(a) A person commits an offense if the person is required to make a report under Section 261.101(a) and knowingly fails to make a report as provided in this chapter.

(a-1) A person who is a professional as defined by Section 261.101(b) commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) An offense under Subsection (a) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual disability who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(c) An offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 5, effective June 11, 2009; am. Acts 2013, 83rd Leg., ch. 290 (H.B. 1205), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 48(a) provides: "The changes in law made by this Act to Section 261.109, Family Code, Section 48.052, Human Resources Code, and Section 22.04, Penal Code, apply only to an offense committed on or after the effective date of this Act [June 11, 2009]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 89th Leg., ch. 290 (H.B. 1205), §n 1 provides: "The changes in law made by this Act to Section 261.109, Family Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 261.110. Employer Retaliation Prohibited.

(a) In this section, "professional" has the meaning assigned by Section 261.101(b).

(b) An employer may not suspend or terminate the employment of, or otherwise discriminate against, a person who is a professional and who in good faith:

(1) reports child abuse or neglect to:

(A) the person's supervisor;

(B) an administrator of the facility where the person is employed;

(C) a state regulatory agency; or

(D) a law enforcement agency; or

(2) initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

(c) A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of this section may sue for injunctive relief, damages, or both.

(d) A plaintiff who prevails in a suit under this section may recover:

(1) actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;

(2) exemplary damages under Chapter 41, Civil Practice and Remedies Code, if the employer is a private employer;

(3) court costs; and

(4) reasonable attorney's fees.

(e) In addition to amounts recovered under Subsection (d), a plaintiff who prevails in a suit under this section is entitled to:

(1) reinstatement to the person's former position or a position that is comparable in terms of compensation, benefits, and other conditions of employment;

(2) reinstatement of any fringe benefits and seniority rights lost because of the suspension, termination, or discrimination; and

(3) compensation for wages lost during the period of suspension or termination.

(f) A public employee who alleges a violation of this section may sue the employing state or local governmental entity for the relief provided for by this section. Sovereign immunity is waived and abolished to the extent of liability created by this section. A person having a claim under this section

may sue a governmental unit for damages allowed by this section.

(g) In a suit under this section against an employing state or local governmental entity, a plaintiff may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:

(1) $50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(2) $100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(3) $200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and

(4) $250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(h) If more than one subdivision of Subsection (g) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this section is governed by the applicable provision that provides the highest damage award.

(i) A plaintiff suing under this section has the burden of proof, except that there is a rebuttable presumption that the plaintiff's employment was suspended or terminated or that the plaintiff was otherwise discriminated against for reporting abuse or neglect if the suspension, termination, or discrimination occurs before the 61st day after the date on which the person made a report in good faith.

(j) A suit under this section may be brought in a district or county court of the county in which:

(1) the plaintiff was employed by the defendant; or

(2) the defendant conducts business.

(k) It is an affirmative defense to a suit under Subsection (b) that an employer would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee reported child abuse or neglect or initiated or cooperated with an investigation or proceeding relating to an allegation of child abuse or neglect.

(*l*) A public employee who has a cause of action under Chapter 554, Government Code, based on conduct described by Subsection (b) may not bring an action based on that conduct under this section.

(m) This section does not apply to a person who reports the person's own abuse or neglect of a child or who initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of the person's own abuse or neglect of a child.

(Enacted by Acts 2001, 77th Leg., ch. 896 (H.B. 3476), § 1, effective September 1, 2001.)

Sec. 261.111. Refusal of Psychiatric or Psychological Treatment of Child.

(a) In this section, "psychotropic drug" means a substance that is:

(1) used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and

(2) intended to have an altering effect on perception, emotion, or behavior.

(b) The refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic drug to the child, or to consent to any other psychiatric or psychological treatment of the child, does not by itself constitute neglect of the child unless the refusal to consent:

(1) presents a substantial risk of death, disfigurement, or bodily injury to the child; or

(2) has resulted in an observable and material impairment to the growth, development, or functioning of the child.

(Enacted by Acts 2003, 78th Leg., ch. 1008 (H.B. 320), § 3, effective June 20, 2003.)

SUBCHAPTER C
CONFIDENTIALITY AND PRIVILEGED COMMUNICATION

Sec. 261.201. Confidentiality and Disclosure of Information.

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audio-

tapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

(b) A court may order the disclosure of information that is confidential under this section if:

(1) a motion has been filed with the court requesting the release of the information;

(2) a notice of hearing has been served on the investigating agency and all other interested parties; and

(3) after hearing and an in camera review of the requested information, the court determines that the disclosure of the requested information is:

(A) essential to the administration of justice; and

(B) not likely to endanger the life or safety of:

(i) a child who is the subject of the report of alleged or suspected abuse or neglect;

(ii) a person who makes a report of alleged or suspected abuse or neglect; or

(iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child.

(b-1) On a motion of one of the parties in a contested case before an administrative law judge relating to the license or certification of a professional, as defined by Section 261.101(b), or an educator, as defined by Section 5.001, Education Code, the administrative law judge may order the disclosure of information that is confidential under this section that relates to the matter before the administrative law judge after a hearing for which notice is provided as required by Subsection (b)(2) and making the review and determination required by Subsection (b)(3). Before the department may release information under this subsection, the department must edit the information to protect the confidentiality of the identity of any person who makes a report of abuse or neglect.

(c) In addition to Subsection (b), a court, on its own motion, may order disclosure of information that is confidential under this section if:

(1) the order is rendered at a hearing for which all parties have been given notice;

(2) the court finds that disclosure of the information is:

(A) essential to the administration of justice; and

(B) not likely to endanger the life or safety of:

(i) a child who is the subject of the report of alleged or suspected abuse or neglect;

(ii) a person who makes a report of alleged or suspected abuse or neglect; or

(iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child; and

(3) the order is reduced to writing or made on the record in open court.

(d) The adoptive parents of a child who was the subject of an investigation and an adult who was the subject of an investigation as a child are entitled to examine and make copies of any report, record, working paper, or other information in the possession, custody, or control of the state that pertains to the history of the child. The department may edit the documents to protect the identity of the biological parents and any other person whose identity is confidential, unless this information is already known to the adoptive parents or is readily available through other sources, including the court records of a suit to terminate the parent-child relationship under Chapter 161.

(e) Before placing a child who was the subject of an investigation, the department shall notify the prospective adoptive parents of their right to examine any report, record, working paper, or other information in the possession, custody, or control of the state that pertains to the history of the child.

(f) The department shall provide prospective adoptive parents an opportunity to examine information under this section as early as practicable before placing a child.

(f-1) The department shall provide to a relative or other individual with whom a child is placed any information the department considers necessary to ensure that the relative or other individual is prepared to meet the needs of the child. The information required by this subsection may include information related to any abuse or neglect suffered by the child.

(g) Notwithstanding Subsection (b), the department, on request and subject to department rule, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

(i) Notwithstanding Subsection (a), the Texas Youth Commission shall release a report of alleged or suspected abuse or neglect made under this chapter if:

(1) the report relates to a report of abuse or neglect involving a child committed to the com-

mission during the period that the child is committed to the commission; and

(2) the commission is not prohibited by Chapter 552, Government Code, or other law from disclosing the report.

(j) The Texas Youth Commission shall edit any report disclosed under Subsection (i) to protect the identity of:

(1) a child who is the subject of the report of alleged or suspected abuse or neglect;

(2) the person who made the report; and

(3) any other person whose life or safety may be endangered by the disclosure.

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(*l*) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and

(3) the identity of the person who made the report.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 93, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 12, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 69, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 3, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 22, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 68 (S.B. 579), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.15, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 263 (S.B. 103), § 12, effective June 8, 2007; am. Acts 2009, 81st Leg., ch. 713 (H.B. 2876), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 779 (S.B. 1050), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 13, effective September 1, 2009.)

Sec. 261.202. Privileged Communication.

In a proceeding regarding the abuse or neglect of a child, evidence may not be excluded on the ground of privileged communication except in the case of communications between an attorney and client. (Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 261.203. Information Relating to Child Fatality.

(a) Not later than the fifth day after the date the department receives a request for information about a child fatality with respect to which the department is conducting an investigation of alleged abuse or neglect, the department shall release:

(1) the age and sex of the child;

(2) the date of death;

(3) whether the state was the managing conservator of the child at the time of the child's death; and

(4) whether the child resided with the child's parent, managing conservator, guardian, or other person entitled to possession of the child at the time of the child's death.

(b) If, after a child abuse or neglect investigation is completed, the department determines a child's death was caused by abuse or neglect, the department shall promptly release the following information on request:

(1) the information described by Subsection (a), if not previously released to the person requesting the information;

(2) for cases in which the child's death occurred while the child was living with the child's parent, managing conservator, guardian, or other person entitled to possession of the child:

(A) a summary of any previous reports of abuse or neglect of the deceased child or another child made while the child was living with that parent, managing conservator, guardian, or other person entitled to possession of the child;

(B) the disposition of any report under Paragraph (A);

(C) a description of the services, if any, that were provided by the department to the child or

the child's family as a result of any report under Paragraph (A); and

(D) the results of any risk or safety assessment completed by the department relating to the deceased child; and

(3) for a case in which the child's death occurred while the child was in substitute care with the department or with a residential child-care provider regulated under Chapter 42, Human Resources Code, the following information:

(A) the date the substitute care provider with whom the child was residing at the time of death was licensed or verified;

(B) a summary of any previous reports of abuse or neglect investigated by the department relating to the substitute care provider, including the disposition of any investigation resulting from a report;

(C) any reported licensing violations, including notice of any action taken by the department regarding a violation; and

(D) records of any training completed by the substitute care provider while the child was placed with the provider.

(c) If the department is unable to release the information required by Subsection (b) before the 11th day after the date the department receives a request for the information or the date the investigation of the child fatality is completed, whichever is later, the department shall inform the person requesting the information of the date the department will release the information.

(d) After receiving a request for information required by Subsection (b), the department shall notify and provide a copy of the request to the attorney ad litem for the deceased child, if any.

(e) Before the department releases any information under Subsection (b), the department shall redact from the records any information the release of which would:

(1) identify:

(A) the individual who reported the abuse or neglect; or

(B) any other individual other than the deceased child or an alleged perpetrator of the abuse or neglect;

(2) jeopardize an ongoing criminal investigation or prosecution;

(3) endanger the life or safety of any individual; or

(4) violate other state or federal law.

(f) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement this section.

(Enacted by Acts 2009, 81st Leg., ch. 779 (S.B. 1050), § 2, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 779 (S.B. 1050), § 3 provides: "Section 261.203, Family Code, as added by this Act, applies only to information relating to a child fatality that occurs on or after the effective date of this Act [September 1, 2009]. Information relating to a child fatality that occurred before the effective date of this Act is governed by the law as it existed on the date the child fatality occurred, and the former law is continued in effect for that purpose."

SUBCHAPTER D INVESTIGATIONS

Sec. 261.301. Investigation of Report.

(a) With assistance from the appropriate state or local law enforcement agency as provided by this section, the department or designated agency shall make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. The investigation shall be conducted without regard to any pending suit affecting the parent-child relationship.

(b) A state agency shall investigate a report that alleges abuse or neglect occurred in a facility operated, licensed, certified, or registered by that agency as provided by Subchapter E. In conducting an investigation for a facility operated, licensed, certified, registered, or listed by the department, the department shall perform the investigation as provided by:

(1) Subchapter E; and

(2) the Human Resources Code.

(c) The department is not required to investigate a report that alleges child abuse or neglect by a person other than a person responsible for a child's care, custody, or welfare. The appropriate state or local law enforcement agency shall investigate that report if the agency determines an investigation should be conducted.

(d) The department shall by rule assign priorities and prescribe investigative procedures for investigations based on the severity and immediacy of the alleged harm to the child. The primary purpose of the investigation shall be the protection of the child. The rules must require the department, subject to the availability of funds, to:

(1) immediately respond to a report of abuse and neglect that involves circumstances in which the death of the child or substantial bodily harm to the child would result unless the department immediately intervenes;

(2) respond within 24 hours to a report of abuse and neglect that is assigned the highest priority, other than a report described by Subdivision (1); and

(3) respond within 72 hours to a report of abuse and neglect that is assigned the second highest priority.

(e) As necessary to provide for the protection of the child, the department or designated agency shall determine:

(1) the nature, extent, and cause of the abuse or neglect;

(2) the identity of the person responsible for the abuse or neglect;

(3) the names and conditions of the other children in the home;

(4) an evaluation of the parents or persons responsible for the care of the child;

(5) the adequacy of the home environment;

(6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and

(7) all other pertinent data.

(f) An investigation of a report to the department that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child shall be conducted jointly by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, from the appropriate local law enforcement agency and the department or the agency responsible for conducting an investigation under Subchapter E.

(g) The inability or unwillingness of a local law enforcement agency to conduct a joint investigation under this section does not constitute grounds to prevent or prohibit the department from performing its duties under this subtitle. The department shall document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation under this section.

(h) The department and the appropriate local law enforcement agency shall conduct an investigation, other than an investigation under Subchapter E, as provided by this section and Article 2.27, Code of Criminal Procedure, if the investigation is of a report that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child. Immediately on receipt of a report described by this subsection, the department shall notify the appropriate local law enforcement agency of the report.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 94, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 943 (H.B. 2569), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 70, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1137 (H.B. 3345), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 4, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 23, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 867 (S.B. 669), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.16(a), effective September 1, 2005.)

Sec. 261.3011. Joint Investigation Guidelines and Training.

(a) The department shall, in consultation with the appropriate law enforcement agencies, develop guidelines and protocols for joint investigations by the department and the law enforcement agency under Section 261.301. The guidelines and protocols must:

(1) clarify the respective roles of the department and law enforcement agency in conducting the investigation;

(2) require that mutual child protective services and law enforcement training and agreements be implemented by both entities to ensure the integrity and best outcomes of joint investigations; and

(3) incorporate the use of forensic methods in determining the occurrence of child abuse and neglect.

(b) The department shall collaborate with law enforcement agencies to provide to department investigators and law enforcement officers responsible for investigating reports of abuse and neglect joint training relating to methods to effectively conduct joint investigations under Section 261.301. The training must include information on interviewing techniques, evidence gathering, and testifying in court for criminal investigations, as well as instruction on rights provided by the Fourth Amendment to the United States Constitution.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.17, effective September 1, 2005.)

Sec. 261.3012. Completion of Paperwork.

An employee of the department who responds to a report that is assigned the highest priority in accordance with department rules adopted under Section 261.301(d) shall identify, to the extent reasonable under the circumstances, forms and other paperwork that can be completed by members of the family of the child who is the subject of the report. The department employee shall request the assistance of the child's family members in completing that documentation but remains responsible for ensuring that the documentation is completed in an appropriate manner.

(Enacted by Acts 2005, 79th Leg., ch. 55 (H.B. 802), § 1, effective May 17, 2005; enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.18, effective September 1, 2005.)

Sec. 261.3013. Case Closure Agreements Prohibited.

(a) Except as provided by Subsection (b), on closing a case, the department may not enter into a written agreement with a child's parent or another adult with whom the child resides that requires the parent or other adult to take certain actions after the case is closed to ensure the child's safety.

(b) This section does not apply to an agreement that is entered into by a parent or other adult:

(1) following the removal of a child and that is subject to the approval of a court with continuing jurisdiction over the child;

(2) as a result of the person's participation in family group conferencing; or

(3) as part of a formal case closure plan agreed to by the person who will continue to care for a child as a result of a parental child safety placement.

(c) The department shall develop policies to guide caseworkers in the development of case closure agreements authorized under Subsections (b)(2) and (3).

(Enacted by Acts 2011, 82nd Leg., ch. 1124 (S.B. 218), § 1, effective September 1, 2011.)

Sec. 261.3015. Flexible Response System.

(a) In assigning priorities and prescribing investigative procedures based on the severity and immediacy of the alleged harm to a child under Section 261.301(d), the department shall establish a flexible response system to allow the department to make the most effective use of resources to investigate and respond to reported cases of abuse and neglect.

(b) Notwithstanding Section 261.301, the department may, in accordance with this section and department rules, conduct an alternative response to a report of abuse or neglect if the report does not:

(1) allege sexual abuse of a child;

(2) allege abuse or neglect that caused the death of a child; or

(3) indicate a risk of serious physical injury or immediate serious harm to a child.

(c) The department may administratively close a reported case of abuse or neglect without completing the investigation or alternative response and without providing services or making a referral to another entity for assistance if the department determines, after contacting a professional or other credible source, that the child's safety can be assured without further investigation, response, services, or assistance.

(d) In determining how to classify a reported case of abuse or neglect under the flexible response system, the child's safety is the primary concern.

The classification of a case may be changed as warranted by the circumstances.

(e) An alternative response to a report of abuse or neglect must include:

(1) a safety assessment of the child who is the subject of the report;

(2) an assessment of the child's family; and

(3) in collaboration with the child's family, identification of any necessary and appropriate service or support to reduce the risk of future harm to the child.

(f) An alternative response to a report of abuse or neglect may not include a formal determination of whether the alleged abuse or neglect occurred.

(g) The department may implement the alternative response in one or more of the department's administrative regions before implementing the system statewide. The department shall study the results of the system in the regions where the system has been implemented in determining the method by which to implement the system statewide.

(Enacted by Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 71, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.19(a), effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 420 (S.B. 423), § 1, effective September 1, 2013.)

Sec. 261.3016. Training of Personnel Receiving Reports of Abuse and Neglect.

The department shall develop, in cooperation with local law enforcement officials and the Commission on State Emergency Communications, a training program for department personnel who receive reports of abuse and neglect. The training program must include information on:

(1) the proper methods of screening reports of abuse and neglect; and

(2) ways to determine the seriousness of a report, including determining whether a report alleges circumstances that could result in the death of or serious harm to a child or whether the report is less serious in nature.

(Enacted by Acts 2005, 79th Leg., ch. 54 (H.B. 801), § 1, effective September 1, 2005; enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.20, effective September 1, 2005.)

Sec. 261.3019. Pilot Programs for Investigations of Child Abuse [Expired].

Expired pursuant to Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 72, effective September 1, 2001.

(Enacted by Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 72, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 907 (H.B. 2170), § 38, effective September 1, 1999.)

Sec. 261.302. Conduct of Investigation.

(a) The investigation may include:

(1) a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit; and

(2) an interview with and examination of the subject child, which may include a medical, psychological, or psychiatric examination.

(b) The interview with and examination of the child may:

(1) be conducted at any reasonable time and place, including the child's home or the child's school;

(2) include the presence of persons the department or designated agency determines are necessary; and

(3) include transporting the child for purposes relating to the interview or investigation.

(b-1) Before the department may transport a child as provided by Subsection (b)(3), the department shall attempt to notify the parent or other person having custody of the child of the transport.

(c) The investigation may include an interview with the child's parents and an interview with and medical, psychological, or psychiatric examination of any child in the home.

(d) If, before an investigation is completed, the investigating agency believes that the immediate removal of a child from the child's home is necessary to protect the child from further abuse or neglect, the investigating agency shall file a petition or take other action under Chapter 262 to provide for the temporary care and protection of the child.

(e) An interview with a child conducted by the department during the investigation stage shall be audiotaped or videotaped. An interview with a child alleged to be a victim of physical abuse or sexual abuse conducted by an investigating agency other than the department shall be audiotaped or videotaped unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency. Good cause may include, but is not limited to, such considerations as the age of the child and the nature and seriousness of the allegations under investigation. Nothing in this subsection shall be construed as prohibiting the investigating agency from audiotaping or videotaping an interview of a child on any case for which such audiotaping or videotaping is not required under this subsection. The fact that the investigating agency failed to audiotape or videotape an interview is admissible at the trial of the offense that is the subject of the interview.

(f) A person commits an offense if the person is notified of the time of the transport of a child by the department and the location from which the transport is initiated and the person is present at the location when the transport is initiated and attempts to interfere with the department's investigation. An offense under this subsection is a Class B misdemeanor. It is an exception to the application of this subsection that the department requested the person to be present at the site of the transport.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 95, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), §§ 13, 14, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 73, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.21, effective September 1, 2005.)

Sec. 261.3021. Casework Documentation and Management.

Subject to the appropriation of money for these purposes, the department shall:

(1) identify critical investigation actions that impact child safety and require department caseworkers to document those actions in a child's case file not later than the day after the action occurs;

(2) identify and develop a comprehensive set of casework quality indicators that must be reported in real time to support timely management oversight;

(3) provide department supervisors with access to casework quality indicators and train department supervisors on the use of that information in the daily supervision of caseworkers;

(4) develop a case tracking system that notifies department supervisors and management when a case is not progressing in a timely manner;

(5) use current data reporting systems to provide department supervisors and management with easier access to information; and

(6) train department supervisors and management on the use of data to monitor cases and make decisions.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.22, effective September 1, 2005.)

Sec. 261.3022. Child Safety Check Alert List.

(a) Subject to the availability of funds, the Department of Public Safety of the State of Texas shall create a child safety check alert list as part of the Texas Crime Information Center to help locate a family for purposes of investigating a report of child abuse or neglect.

(b) If the child safety check alert list is established and the department is unable to locate a family for purposes of investigating a report of child abuse or neglect, after the department has exhausted all means available to the department for locating the family, the department may seek assistance under this section from the appropriate county attorney, district attorney, or criminal district attorney with responsibility for representing the department as provided by Section 264.009.

(c) If the department requests assistance, the county attorney, district attorney, or criminal district attorney, as applicable, may file an application with the court requesting the issuance of an ex parte order requiring the Texas Crime Information Center to place the members of the family the department is attempting to locate on a child safety check alert list. The application must include a summary of:

(1) the report of child abuse or neglect the department is attempting to investigate; and

(2) the department's efforts to locate the family.

(d) If the court determines after a hearing that the department has exhausted all means available to the department for locating the family, the court shall approve the application and order the appropriate law enforcement agency to notify the Texas Crime Information Center to place the family on a child safety check alert list. The alert list must include:

(1) the name of the family member alleged to have abused or neglected a child according to the report the department is attempting to investigate;

(2) the name of the child who is the subject of the report;

(3) a code identifying the type of child abuse or neglect alleged to have been committed against the child;

(4) the family's last known address; and

(5) the minimum criteria for an entry as established by the center.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.22, effective September 1, 2005.)

Sec. 261.3023. Law Enforcement Response to Child Safety Check Alert.

(a) If a law enforcement officer encounters a person listed on the Texas Crime Information Center's child safety check alert list who is alleged to have abused or neglected a child, or encounters a child listed on the alert list who is the subject of a report of child abuse or neglect the department is attempting to investigate, the officer shall request information from the person or the child regarding the child's well-being and current residence.

(b) If the law enforcement officer determines that the circumstances described by Section 262.104 exist, the officer may take possession of the child without a court order as authorized by that section if the officer is able to locate the child. If the circumstances described by Section 262.104 do not exist, the officer shall obtain the child's current address and any other relevant information and report that information to the department.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.22, effective September 1, 2005.)

Sec. 261.3024. Removal from Child Safety Check Alert List.

(a) A law enforcement officer who locates a child listed on the Texas Crime Information Center's child safety check alert list who is the subject of a report of child abuse or neglect the department is attempting to investigate and who reports the child's current address and other relevant information to the department under Section 261.3023 shall report to the Texas Crime Information Center that the child has been located.

(b) If the department locates a child described by Subsection (a) through a means other than information reported by a law enforcement officer under Subsection (a), the department shall report to the Texas Crime Information Center that the child has been located.

(c) On receipt of notice under this section that a child has been located, the Texas Crime Information Center shall remove the child and the child's family from the child safety check alert list.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.22, effective September 1, 2005.)

Sec. 261.303. Interference with Investigation; Court Order.

(a) A person may not interfere with an investigation of a report of child abuse or neglect conducted by the department or designated agency.

(b) If admission to the home, school, or any place where the child may be cannot be obtained, then for good cause shown the court having family law jurisdiction shall order the parent, the person responsible for the care of the children, or the person in charge of any place where the child may be to allow entrance for the interview, examination, and investigation.

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department or designated agency, the court having family law jurisdiction shall, for good cause shown, order the records to be released or the examination to be made at the times and places designated by the court.

(d) A person, including a medical facility, that makes a report under Subchapter B shall release to the department or designated agency, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order. If a child is transferred from a reporting medical facility to another medical facility to treat the injury or condition that formed the basis for the original report, the transferee medical facility shall, at the department's request, release to the department records relating to the injury or condition without requiring parental consent or a court order.

(e) A person, including a utility company, that has confidential locating or identifying information regarding a family that is the subject of an investigation under this chapter shall release that information to the department on request. The release of information to the department as required by this subsection by a person, including a utility company, is not subject to Section 552.352, Government Code, or any other law providing liability for the release of confidential information.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 96, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 5, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 24, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1406 (S.B. 758), § 6, effective September 1, 2007.)

Sec. 261.3031. Failure to Cooperate with Investigation; Department Response.

(a) If a parent or other person refuses to cooperate with the department's investigation of the alleged abuse or neglect of a child and the refusal poses a risk to the child's safety, the department shall seek assistance from the appropriate county attorney or district attorney or criminal district attorney with responsibility for representing the department as provided by Section 264.009 to obtain a court order as described by Section 261.303.

(b) A person's failure to report to an agency authorized to investigate abuse or neglect of a child within a reasonable time after receiving proper notice constitutes a refusal by the person to cooperate with the department's investigation. A summons may be issued to locate the person.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.23, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1406 (S.B. 758), § 7, effective September 1, 2007.)

Sec. 261.3032. Interference with Investigation; Criminal Penalty.

(a) A person commits an offense if, with the intent to interfere with the department's investigation of a report of abuse or neglect of a child, the person relocates the person's residence, either temporarily or permanently, without notifying the department of the address of the person's new residence or conceals the child and the person's relocation or concealment interferes with the department's investigation.

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

(c) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.24, effective September 1, 2005.)

Sec. 261.304. Investigation of Anonymous Report.

(a) If the department receives an anonymous report of child abuse or neglect by a person responsible for a child's care, custody, or welfare, the department shall conduct a preliminary investigation to determine whether there is any evidence to corroborate the report.

(b) An investigation under this section may include a visit to the child's home and an interview with and examination of the child and an interview with the child's parents. In addition, the department may interview any other person the department believes may have relevant information.

(c) Unless the department determines that there is some evidence to corroborate the report of abuse, the department may not conduct the thorough investigation required by this chapter or take any action against the person accused of abuse.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 261.305. Access to Mental Health Records.

(a) An investigation may include an inquiry into the possibility that a parent or a person responsible for the care of a child who is the subject of a report under Subchapter B has a history of medical or mental illness.

(b) If the parent or person does not consent to an examination or allow the department or designated agency to have access to medical or mental health records requested by the department or agency, the court having family law jurisdiction, for good cause shown, shall order the examination to be made or that the department or agency be permitted to have access to the records under terms and conditions prescribed by the court.

(c) If the court determines that the parent or person is indigent, the court shall appoint an attorney to represent the parent or person at the hearing. The fees for the appointed attorney shall be paid as provided by Chapter 107.

(d) A parent or person responsible for the child's care is entitled to notice and a hearing when the department or designated agency seeks a court order to allow a medical, psychological, or psychiatric examination or access to medical or mental health records.

(e) This access does not constitute a waiver of confidentiality.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 15, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 6, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 25, effective September 1, 1999.)

Sec. 261.306. Removal of Child from State.

(a) If the department or designated agency has reason to believe that a person responsible for the care, custody, or welfare of the child may remove the child from the state before the investigation is completed, the department or designated agency may file an application for a temporary restraining order in a district court without regard to continuing jurisdiction of the child as provided in Chapter 155.

(b) The court may render a temporary restraining order prohibiting the person from removing the child from the state pending completion of the investigation if the court:

(1) finds that the department or designated agency has probable cause to conduct the investigation; and

(2) has reason to believe that the person may remove the child from the state.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 261.307. Information Relating to Investigation Procedure.

(a) As soon as possible after initiating an investigation of a parent or other person having legal custody of a child, the department shall provide to the person:

(1) a summary that:

(A) is brief and easily understood;

(B) is written in a language that the person understands, or if the person is illiterate, is read to the person in a language that the person understands; and

(C) contains the following information:

(i) the department's procedures for conducting an investigation of alleged child abuse or neglect, including:

(a) a description of the circumstances under which the department would request to remove the child from the home through the judicial system; and

(b) an explanation that the law requires the department to refer all reports of alleged child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

(ii) the person's right to file a complaint with the department or to request a review of the findings made by the department in the investigation;

(iii) the person's right to review all records of the investigation unless the review would jeopardize an ongoing criminal investigation or the child's safety;

(iv) the person's right to seek legal counsel;

(v) references to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and

(vi) the process the person may use to acquire access to the child if the child is removed from the home;

(2) if the department determines that removal of the child may be warranted, a proposed child placement resources form that:

(A) instructs the parent or other person having legal custody of the child to:

(i) complete and return the form to the department or agency; and

(ii) identify in the form three individuals who could be relative caregivers or designated caregivers, as those terms are defined by Section 264.751; and

(B) informs the parent or other person of a location that is available to the parent or other person to submit the information in the form 24 hours a day either in person or by facsimile machine or e-mail; and

(3) an informational manual required by Section 261.3071.

(b) The child placement resources form described by Subsection (a)(2) must include information on the periods of time by which the department must complete a background check.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.25(a), effective September 1, 2005.)

Sec. 261.3071. Informational Manuals.

(a) In this section:

(1) "Designated caregiver" and "relative caregiver" have the meanings assigned those terms by Section 264.751.

(2) "Voluntary caregiver" means a person who voluntarily agrees to provide temporary care for a child:

(A) who is the subject of an investigation by the department or whose parent, managing conservator, possessory conservator, guardian, caretaker, or custodian is receiving family-based safety services from the department;

(B) who is not in the conservatorship of the department; and

(C) who is placed in the care of the person by the parent or other person having legal custody of the child.

(b) The department shall develop and publish informational manuals that provide information for:

(1) a parent or other person having custody of a child who is the subject of an investigation under this chapter;

(2) a person who is selected by the department to be the child's relative or designated caregiver; and

(3) a voluntary caregiver.

(c) Information provided in the manuals must be in both English and Spanish and must include, as appropriate:

(1) useful indexes of information such as telephone numbers;

(2) the information required to be provided under Section 261.307(a)(1);

(3) information describing the rights and duties of a relative or designated caregiver;

(4) information regarding the relative and other designated caregiver program under Subchapter I, Chapter 264; and

(5) information regarding the role of a voluntary caregiver, including information on how to obtain any documentation necessary to provide for a child's needs.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.26, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 825 (S.B. 1723), § 1, effective June 19, 2009.)

Sec. 261.308. Submission of Investigation Report.

(a) The department or designated agency shall make a complete written report of the investigation.

(b) If sufficient grounds for filing a suit exist, the department or designated agency shall submit the report, together with recommendations, to the court, the district attorney, and the appropriate law enforcement agency.

(c) On receipt of the report and recommendations, the court may direct the department or designated agency to file a petition requesting appropriate relief as provided in this title.

(d) The department shall release information regarding a person alleged to have committed abuse or neglect to persons who have control over the person's access to children, including, as appropriate, the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, or the school principal or director if the department determines that:

(1) the person alleged to have committed abuse or neglect poses a substantial and immediate risk of harm to one or more children outside the family of a child who is the subject of the investigation; and

(2) the release of the information is necessary to assist in protecting one or more children from the person alleged to have committed abuse or neglect.

(e) On request, the department shall release information about a person alleged to have committed abuse or neglect to the State Board for Educator Certification if the board has a reasonable basis for believing that the information is necessary to assist the board in protecting children from the person alleged to have committed abuse or neglect.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 97, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 13, effective June 15, 2007.)

Sec. 261.309. Review of Department Investigations.

(a) The department shall by rule establish policies and procedures to resolve complaints relating to and conduct reviews of child abuse or neglect investigations conducted by the department.

(b) If a person under investigation for allegedly abusing or neglecting a child requests clarification of the status of the person's case or files a complaint relating to the conduct of the department's staff or to department policy, the department shall conduct an informal review to clarify the person's status or

resolve the complaint. The immediate supervisor of the employee who conducted the child abuse or neglect investigation or against whom the complaint was filed shall conduct the informal review as soon as possible but not later than the 14th day after the date the request or complaint is received.

(c) If, after the department's investigation, the person who is alleged to have abused or neglected a child disputes the department's determination of whether child abuse or neglect occurred, the person may request an administrative review of the findings. A department employee in administration who was not involved in or did not directly supervise the investigation shall conduct the review. The review must sustain, alter, or reverse the department's original findings in the investigation.

(d) Unless a civil or criminal court proceeding or an ongoing criminal investigation relating to the alleged abuse or neglect investigated by the department is pending, the department employee shall conduct the review prescribed by Subsection (c) as soon as possible but not later than the 45th day after the date the department receives the request. If a civil or criminal court proceeding or an ongoing criminal investigation is pending, the department may postpone the review until the court proceeding is completed.

(e) A person is not required to exhaust the remedies provided by this section before pursuing a judicial remedy provided by law.

(f) This section does not provide for a review of an order rendered by a court.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.)

Sec. 261.310. Investigation Standards.

(a) The department shall by rule develop and adopt standards for persons who investigate suspected child abuse or neglect at the state or local level. The standards shall encourage professionalism and consistency in the investigation of suspected child abuse or neglect.

(b) The standards must provide for a minimum number of hours of annual professional training for interviewers and investigators of suspected child abuse or neglect.

(c) The professional training curriculum developed under this section shall include:

(1) information concerning:

(A) physical abuse and neglect, including distinguishing physical abuse from ordinary childhood injuries;

(B) psychological abuse and neglect;

(C) available treatment resources; and

(D) the incidence and types of reports of child abuse and neglect that are received by the investigating agencies, including information concerning false reports;

(2) law-enforcement-style training, including training relating to forensic interviewing and investigatory techniques and the collection of physical evidence; and

(3) training regarding applicable federal law, including the Adoption and Safe Families Act of 1997 (Pub. L. No. 105-89) and the Child Abuse Prevention and Treatment Act (Pub. L. No. 93-247) and its subsequent amendments by the Keeping Children and Families Safe Act of 2003 (Pub. L. No. 108-36).

(d) The standards shall:

(1) recommend that videotaped and audiotaped interviews be uninterrupted;

(2) recommend a maximum number of interviews with and examinations of a suspected victim;

(3) provide procedures to preserve evidence, including the original recordings of the intake telephone calls, original notes, videotapes, and audiotapes, for one year; and

(4) provide that an investigator of suspected child abuse or neglect make a reasonable effort to locate and inform each parent of a child of any report of abuse or neglect relating to the child.

(e) The department, in conjunction with the Department of Public Safety, shall provide to the department's residential child-care facility licensing investigators advanced training in investigative protocols and techniques.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.27, effective September 1, 2005.)

Sec. 261.3101. Forensic Investigation Support.

The department shall, subject to the availability of money:

(1) employ or contract with medical and law enforcement professionals who shall be strategically placed throughout the state to provide forensic investigation support and to assist caseworkers with assessment decisions and intervention activities;

(2) employ or contract with subject matter experts to serve as consultants to department caseworkers in all aspects of their duties; and

(3) designate persons who shall act as liaisons within the department whose primary functions are to develop relationships with local law enforcement agencies and courts.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.28, effective September 1, 2005.)

Sec. 261.311. Notice of Report.

(a) When during an investigation of a report of suspected child abuse or neglect a representative of the department or the designated agency conducts an interview with or an examination of a child, the department or designated agency shall make a reasonable effort before 24 hours after the time of the interview or examination to notify each parent of the child and the child's legal guardian, if one has been appointed, of the nature of the allegation and of the fact that the interview or examination was conducted.

(b) If a report of suspected child abuse or neglect is administratively closed by the department or designated agency as a result of a preliminary investigation that did not include an interview or examination of the child, the department or designated agency shall make a reasonable effort before the expiration of 24 hours after the time the investigation is closed to notify each parent and legal guardian of the child of the disposition of the investigation.

(c) The notice required by Subsection (a) or (b) is not required if the department or agency determines that the notice is likely to endanger the safety of the child who is the subject of the report, the person who made the report, or any other person who participates in the investigation of the report.

(d) The notice required by Subsection (a) or (b) may be delayed at the request of a law enforcement agency if notification during the required time would interfere with an ongoing criminal investigation.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 74, effective September 1, 1997.)

Sec. 261.312. Review Teams; Offense.

(a) The department shall establish review teams to evaluate department casework and decision-making related to investigations by the department of child abuse or neglect. The department may create one or more review teams for each region of the department for child protective services. A review team is a citizen review panel or a similar entity for the purposes of federal law relating to a state's child protection standards.

(b) A review team consists of at least five members who serve staggered two-year terms. Review team members are appointed by the director of the department and consist of volunteers who live in and are broadly representative of the region in which the review team is established and have expertise in the prevention and treatment of child abuse and neglect. At least two members of a review team must be parents who have not been convicted of or indicted for an offense involving child abuse or neglect, have not been determined by the department to have engaged in child abuse or neglect, and are not under investigation by the department for child abuse or neglect. A member of a review team is a department volunteer for the purposes of Section 411.114, Government Code.

(c) A review team conducting a review of an investigation may conduct the review by examining the facts of the case as outlined by the department caseworker and law enforcement personnel. A review team member acting in the member's official capacity may receive information made confidential under Section 40.005, Human Resources Code, or Section 261.201.

(d) A review team shall report to the department the results of the team's review of an investigation. The review team's report may not include confidential information. The findings contained in a review team's report are subject to disclosure under Chapter 552, Government Code. This section does not require a law enforcement agency to divulge information to a review team that the agency believes would compromise an ongoing criminal case, investigation, or proceeding.

(e) A member of a review team commits an offense if the member discloses confidential information. An offense under this subsection is a Class C misdemeanor.

(Enacted by Acts 1995, 74th Leg., ch. 943 (H.B. 2569), § 3, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 16, effective September 1, 1997; am. Acts 2009, 81st Leg., ch. 1372 (S.B. 939), § 3, effective June 19, 2009.)

Sec. 261.3125. Child Safety Specialists.

(a) The department shall employ in each of the department's administrative regions at least one child safety specialist. The job responsibilities of the child safety specialist must focus on child abuse and neglect investigation issues, including reports of child abuse required by Section 261.101, to achieve a greater compliance with that section, and on assessing and improving the effectiveness of the department in providing for the protection of children in the region.

(b) The duties of a child safety specialist must include the duty to:

(1) conduct staff reviews and evaluations of cases determined to involve a high risk to the health or safety of a child, including cases of abuse reported under Section 261.101, to ensure that risk assessment tools are fully and correctly used;

(2) review and evaluate cases in which there have been multiple referrals to the department of

child abuse or neglect involving the same family, child, or person alleged to have committed the abuse or neglect; and

(3) approve decisions and assessments related to investigations of cases of child abuse or neglect that involve a high risk to the health or safety of a child.

(Enacted by Acts 1999, 76th Leg., ch. 1490 (H.B. 3778), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.29, effective September 1, 2005.)

Sec. 261.3126. Colocation of Investigators.

(a) In each county, to the extent possible, the department and the local law enforcement agencies that investigate child abuse in the county shall colocate in the same offices investigators from the department and the law enforcement agencies to improve the efficiency of child abuse investigations. With approval of the local children's advocacy center and its partner agencies, in each county in which a children's advocacy center established under Section 264.402 is located, the department shall attempt to locate investigators from the department and county and municipal law enforcement agencies at the center.

(b) A law enforcement agency is not required to comply with the colocation requirements of this section if the law enforcement agency does not have a full-time peace officer solely assigned to investigate reports of child abuse and neglect.

(c) If a county does not have a children's advocacy center, the department shall work with the local community to encourage one as provided by Section 264.402.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.30, effective September 1, 2005.)

Sec. 261.313. [Reserved for expansion].

Sec. 261.314. Testing.

(a) The department shall provide testing as necessary for the welfare of a child who the department believes, after an investigation under this chapter, has been sexually abused, including human immunodeficiency virus (HIV) testing of a child who was abused in a manner by which HIV may be transmitted.

(b) Except as provided by Subsection (c), the results of a test under this section are confidential.

(c) If requested, the department shall report the results of a test under this section to:

(1) a court having jurisdiction of a proceeding involving the child or a proceeding involving a person suspected of abusing the child;

(2) a person responsible for the care and custody of the child as a foster parent; and

(3) a person seeking to adopt the child.

(Enacted by Acts 1995, 74th Leg., ch. 943 (H.B. 2569), § 7, effective September 1, 1995.)

Sec. 261.315. Removal of Certain Investigation Information from Records.

(a) At the conclusion of an investigation in which the department determines that the person alleged to have abused or neglected a child did not commit abuse or neglect, the department shall notify the person of the person's right to request the department to remove information about the person's alleged role in the abuse or neglect report from the department's records.

(b) On request under Subsection (a) by a person whom the department has determined did not commit abuse or neglect, the department shall remove information from the department's records concerning the person's alleged role in the abuse or neglect report.

(c) The board shall adopt rules necessary to administer this section.

(Enacted by Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 75, effective September 1, 1997.)

Sec. 261.316. Exemption from Fees for Medical Records.

The department is exempt from the payment of a fee otherwise required or authorized by law to obtain a medical record from a hospital or health care provider if the request for a record is made in the course of an investigation by the department.

(Enacted by Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 17, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(27), effective September 1, 1999 (renumbered from Sec. 261.315).)

SUBCHAPTER E INVESTIGATIONS OF ABUSE, NEGLECT, OR EXPLOITATION IN CERTAIN FACILITIES

Sec. 261.401. Agency Investigation.

(a) Notwithstanding Section 261.001, in this section:

(1) "Abuse" means an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(2) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

(3) "Neglect" means a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

(b) Except as provided by Section 261.404, a state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children shall make a prompt, thorough investigation of a report that a child has been or may be abused, neglected, or exploited in the facility or program. The primary purpose of the investigation shall be the protection of the child.

(c) A state agency shall adopt rules relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the rules of agencies other than the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission to ensure that those agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports.

(d) The Texas School for the Blind and Visually Impaired and the Texas School for the Deaf shall adopt policies relating to the investigation and resolution of reports received as provided by this subchapter. The Health and Human Services Commission shall review and approve the policies to ensure that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf adopt those policies in a manner consistent with the minimum standards adopted by the Health and Human Services Commission under Section 261.407.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 98, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 355 (S.B. 664), § 2, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 29, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 6, effective June 11, 2009; am. Acts 2009, 81st Leg., ch. 720 (S.B. 68), § 18, effective September 1, 2009.)

Sec. 261.402. Investigative Reports.

(a) A state agency shall prepare and keep on file a complete written report of each investigation conducted by the agency under this subchapter.

(b) A state agency shall immediately notify the appropriate state or local law enforcement agency of any report the agency receives, other than a report from a law enforcement agency, that concerns the suspected abuse, neglect, or exploitation of a child or the death of a child from abuse or neglect. If the state agency finds evidence indicating that a child may have been abused, neglected, or exploited, the agency shall report the evidence to the appropriate law enforcement agency.

(c) A state agency that licenses, certifies, or registers a facility in which children are located shall compile, maintain, and make available statistics on the incidence of child abuse, neglect, and exploitation in the facility.

(d) A state agency shall compile, maintain, and make available statistics on the incidence of child abuse, neglect, and exploitation in a facility operated by the state agency.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 99, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 355 (S.B. 664), § 3, effective September 1, 2001.)

Sec. 261.403. Complaints.

(a) If a state agency receives a complaint relating to an investigation conducted by the agency concerning a facility operated by that agency in which children are located, the agency shall refer the complaint to the agency's board.

(b) The board of a state agency that operates a facility in which children are located shall ensure that the procedure for investigating abuse, neglect, and exploitation allegations and inquiries in the agency's facility is periodically reviewed under the agency's internal audit program required by Chapter 2102, Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 2001, 77th Leg., ch. 355 (S.B. 664), § 4, effective September 1, 2001.)

Sec. 261.404. Investigations Regarding Certain Children with Mental Illness or Mental Retardation.

(a) The department shall investigate a report of abuse, neglect, or exploitation of a child receiving services:

(1) in a facility operated by the Department of Aging and Disability Services or a mental health

facility operated by the Department of State Health Services;

(2) in or from a community center, a local mental health authority, or a local mental retardation authority;

(3) through a program providing services to that child by contract with a facility operated by the Department of Aging and Disability Services, a mental health facility operated by the Department of State Health Services, a community center, a local mental health authority, or a local mental retardation authority;

(4) from a provider of home and community-based services who contracts with the Department of Aging and Disability Services; or

(5) in a facility licensed under Chapter 252, Health and Safety Code.

(b) The department shall investigate the report under rules developed by the executive commissioner of the Health and Human Services Commission with the advice and assistance of the department, the Department of Aging and Disability Services, and the Department of State Health Services.

(c) If a report under this section relates to a child with mental retardation receiving services in a state supported living center or the ICF-MR component of the Rio Grande State Center, the department shall, within one hour of receiving the report, notify the facility in which the child is receiving services of the allegations in the report.

(d) If during the course of the department's investigation of reported abuse, neglect, or exploitation a caseworker of the department or the caseworker's supervisor has cause to believe that a child with mental retardation described by Subsection (c) has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker shall immediately notify the Health and Human Services Commission's office of inspector general and promptly provide the commission's office of inspector general with a copy of the department's investigation report.

(e) The definitions of "abuse" and "neglect" prescribed by Section 261.001 do not apply to an investigation under this section.

(f) In this section:

(1) "Community center," "local mental health authority," "local mental retardation authority," and "state supported living center" have the meanings assigned by Section 531.002, Health and Safety Code.

(2) "Provider" has the meaning assigned by Section 48.351, Human Resources Code.

(Enacted by Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 100, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 907 (H.B. 2170), § 39, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 7, effective June 11, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 42 provides:

"(a) Not later than December 1, 2009, the Health and Human Services Commission, the Department of Family and Protective Services, the Department of Aging and Disability Services, the office of independent ombudsman for state supported living centers, and the Health and Human Services Commission's office of inspector general shall enter into a memorandum of understanding as required by Section 48.007, Human Resources Code, as added by this Act.

(b) Notwithstanding any other provision of this Act, the changes in law made by this Act relating to the investigation of suspected abuse, neglect, or exploitation involving a state supported living center or the ICF-MR component of the Rio Grande State Center apply only to a report of suspected abuse, neglect, or exploitation involving a state supported living center or the ICF-MR component of the Rio Grande State Center that is made on or after January 1, 2010.

(c) Notwithstanding any other provision of this Act, the changes in law made by this Act relating to the investigation of suspected abuse, neglect, or exploitation involving a facility licensed under Chapter 252, Health and Safety Code, apply only to a report of suspected abuse, neglect, or exploitation involving a facility licensed under Chapter 252, Health and Safety Code, that is made on or after June 1, 2010."

Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 49 provides: "If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted."

Sec. 261.405. Investigations in Juvenile Justice Programs and Facilities.

(a) In this section:

(1) "Juvenile justice facility" means a facility operated wholly or partly by the juvenile board, by another governmental unit, or by a private vendor under a contract with the juvenile board, county, or other governmental unit that serves juveniles under juvenile court jurisdiction. The term includes:

(A) a public or private juvenile pre-adjudication secure detention facility, including a hold-over facility;

(B) a public or private juvenile post-adjudication secure correctional facility except for a facility operated solely for children committed to the Texas Youth Commission; and

(C) a public or private non-secure juvenile post-adjudication residential treatment facility that is not licensed by the Department of Protective and Regulatory Services or the Texas Commission on Alcohol and Drug Abuse.

(2) "Juvenile justice program" means a program or department operated wholly or partly by

the juvenile board or by a private vendor under a contract with a juvenile board that serves juveniles under juvenile court jurisdiction. The term includes:

(A) a juvenile justice alternative education program;

(B) a non-residential program that serves juvenile offenders under the jurisdiction of the juvenile court; and

(C) a juvenile probation department.

(b) A report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility shall be made to the Texas Juvenile Probation Commission and a local law enforcement agency for investigation.

(c) The Texas Juvenile Probation Commission shall conduct an investigation as provided by this chapter if the commission receives a report of alleged abuse, neglect, or exploitation in any juvenile justice program or facility.

(d) In an investigation required under this section, the investigating agency shall have access to medical and mental health records as provided by Subchapter D.

(e) As soon as practicable after a child is taken into custody or placed in a juvenile justice facility or juvenile justice program, the facility or program shall provide the child's parents with:

(1) information regarding the reporting of suspected abuse, neglect, or exploitation of a child in a juvenile justice facility or juvenile justice program to the Texas Juvenile Probation Commission; and

(2) the commission's toll-free number for this reporting.

(Enacted by Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 100, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 162 (H.B. 1929), § 2, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1374 (H.B. 1230), § 8, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 7, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 26, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 26, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 47, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 29, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 28, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 908 (H.B. 2884), § 30, effective September 1, 2007.)

Sec. 261.406. Investigations in Schools.

(a) On receipt of a report of alleged or suspected abuse or neglect of a child in a public or private school under the jurisdiction of the Texas Education Agency, the department shall perform an investigation as provided by this chapter.

(b) The department shall send a copy of the completed report of the department's investigation to the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, and the school principal or director, unless the principal or director is alleged to have committed the abuse or neglect, for appropriate action. On request, the department shall provide a copy of the report of investigation to the parent, managing conservator, or legal guardian of a child who is the subject of the investigation and to the person alleged to have committed the abuse or neglect. The report of investigation shall be edited to protect the identity of the persons who made the report of abuse or neglect. Other than the persons authorized by the section to receive a copy of the report, Section 261.201(b) applies to the release of the report relating to the investigation of abuse or neglect under this section and to the identity of the person who made the report of abuse or neglect.

(c) Nothing in this section may prevent a law enforcement agency from conducting an investigation of a report made under this section.

(d) The Board of Protective and Regulatory Services shall adopt rules necessary to implement this section.

(Enacted by Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 100, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 18, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 8, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 27, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 213 (H.B. 1970), § 2, effective September 1, 2005; Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 14, effective June 15, 2007.)

Sec. 261.407. Minimum Standards.

(a) The Health and Human Services Commission by rule shall adopt minimum standards for the investigation under Section 261.401 of suspected child abuse, neglect, or exploitation in a facility.

(b) A rule or policy adopted by a state agency or institution under Section 261.401 must be consistent with the minimum standards adopted by the Health and Human Services Commission.

(c) This section does not apply to a facility under the jurisdiction of the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission.

(Enacted by Acts 2001, 77th Leg., ch. 355 (S.B. 664), § 5, effective September 1, 2001.)

Sec. 261.408. Information Collection.

(a) The Health and Human Services Commission by rule shall adopt uniform procedures for collecting information under Section 261.401, including procedures for collecting information on deaths that occur in facilities.

(b) The department shall receive and compile information on investigations in facilities. An agency submitting information to the department is responsible for ensuring the timeliness, accuracy, completeness, and retention of the agency's reports.

(c) This section does not apply to a facility under the jurisdiction of the Texas Department of Criminal Justice, Texas Youth Commission, or Texas Juvenile Probation Commission.

(Enacted by Acts 2001, 77th Leg., ch. 355 (S.B. 664), § 5, effective September 1, 2001.)

Sec. 261.409. Investigations in Facilities Under Texas Youth Commission Jurisdiction.

The board of the Texas Youth Commission by rule shall adopt standards for:

(1) the investigation under Section 261.401 of suspected child abuse, neglect, or exploitation in a facility under the jurisdiction of the Texas Youth Commission; and

(2) compiling information on those investigations.

(Enacted by Acts 2001, 77th Leg., ch. 355 (S.B. 664), § 6, effective September 1, 2001.)

Sec. 261.410. Report of Abuse by Other Children.

(a) In this section:

(1) "Physical abuse" means:

(A) physical injury that results in substantial harm to the child requiring emergency medical treatment and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; or

(B) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child.

(2) "Sexual abuse" means:

(A) sexual conduct harmful to a child's mental, emotional, or physical welfare; or

(B) failure to make a reasonable effort to prevent sexual conduct harmful to a child.

(b) An agency that operates, licenses, certifies, or registers a facility shall require a residential child-care facility to report each incident of physical or sexual abuse committed by a child against another child.

(c) Using information received under Subsection (b), the agency that operates, licenses, certifies, or registers a facility shall, subject to the availability of funds, compile a report that includes information:

(1) regarding the number of cases of physical and sexual abuse committed by a child against another child;

(2) identifying the residential child-care facility;

(3) regarding the date each allegation of abuse was made;

(4) regarding the date each investigation was started and concluded;

(5) regarding the findings and results of each investigation; and

(6) regarding the number of children involved in each incident investigated.

(Enacted by Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.31, effective September 1, 2005.)

CHAPTER 264
CHILD WELFARE SERVICES

Subchapter B. Foster Care

Section

SUBCHAPTER B
FOSTER CARE

Sec. 264.115. Returning Child to School.

(a) If the department takes possession of a child under Chapter 262 during the school year, the department shall ensure that the child returns to school not later than the third school day after the date an order is rendered providing for possession of the child by the department, unless the child has a physical or mental condition of a temporary and remediable nature that makes the child's attendance infeasible.

(b) If a child has a physical or mental condition of a temporary and remediable nature that makes the child's attendance in school infeasible, the department shall notify the school in writing that the child is unable to attend school. If the child's physical or mental condition improves so that the child's attendance in school is feasible, the department shall ensure that the child immediately returns to school.

(Enacted by Acts 2003, 78th Leg., ch. 234 (H.B. 1050), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(25), effective September 1, 2005 (renumbered from Sec. 264.113).)

Government Code

TITLE 2
JUDICIAL BRANCH

SUBTITLE A
COURTS

CHAPTER 26
CONSTITUTIONAL COUNTY COURTS

Subchapter D. Jurisdiction and Powers

SUBCHAPTER D
JURISDICTION AND POWERS

Sec. 26.045. Original Criminal Jurisdiction.

(a) Except as provided by Subsection (c), a county court has exclusive original jurisdiction of misdemeanors other than misdemeanors involving official misconduct and cases in which the highest fine that may be imposed is $500 or less.

(b) Except as provided by Subsection (c), a county court has jurisdiction in the forfeiture and final judgment of bonds and recognizances taken in criminal cases within the court's jurisdiction.

(c) Except as provided by Subsections (d) and (f), a county court that is in a county with a criminal district court does not have any criminal jurisdiction.

(d) A county court in a county with a population of 1.75 million or more has original jurisdiction over cases alleging a violation of Section 25.093 or 25.094, Education Code.

(e) Subsections (c) and (d) do not affect the jurisdiction of a statutory county court.

(f) A county court has concurrent jurisdiction with a municipal court in cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

(Enacted by Acts 1985, 69th Leg., ch. 480 (S.B. 1228), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 148 (S.B. 895), § 1.41, effective September 1, 1987; am. Acts 1987, 70th Leg., 2nd C.S., ch. 45 (H.B. 133), § 1, effective October 20, 1987; am. Acts 1991, 72nd Leg., ch. 108 (H.B. 407), § 1, effective September 1, 1991; am. Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 612 (H.B. 413), § 11, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 4, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 148 (S.B. 734), § 6(c) provides: "The change in law made by this Act to Section 26.045,Government Code, applies only to a violation of Section 25.093 or 25.094, Education Code, committed on or after the effective date of this Act [September 1, 2011]. A violation committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

SUBTITLE D
JUDICIAL PERSONNEL AND OFFICIALS

CHAPTER 54
MASTERS; MAGISTRATES; REFEREES; ASSOCIATE JUDGES

Subchapter W. Magistrates in Certain County Courts

SUBCHAPTER W
MAGISTRATES IN CERTAIN COUNTY COURTS

Sec. 54.1171. Application of Subchapter.

This subchapter applies to a constitutional county court in a county with a population of 1.75 million or more.

(Enacted by Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(27), effective September 1, 2005 (renumbered from Sec. 54.1151); am. Acts 2011, 82nd Leg., ch. 148 (H.B. 734), § 5, effective September 1, 2011.)

Sec. 54.1172. Appointment.

(a) The county judge may appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093 or 25.094, Education Code.

(b) An appointment under Subsection (a) is subject to the approval of the commissioners court.

(c) A magistrate serves at the pleasure of the county judge.

(d) A magistrate appointed under Subsection (a) must complete every two years at least eight hours of continuing education conducted by the Texas Association of Counties, the State Bar of Texas, or the Texas Justice Court Training Center.

(Enacted by Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(27), effective September 1, 2005 (renumbered from Sec. 54.1152); am. Acts 2007, 80th Leg., ch. 667 (H.B. 1346), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 272 (S.B. 407), § 1, effective May 30, 2009.)

Sec. 54.1173. Qualifications.

A magistrate must:

(1) be a citizen of this state;

(2) be at least 25 years of age; and

(3) have been licensed to practice law in this state for at least four years preceding the date of appointment.

(Enacted by Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(27), effective September 1, 2005 (renumbered from Sec. 54.1153).)

Sec. 54.1174. Compensation.

A magistrate is entitled to the compensation set by the commissioners court. The compensation shall be paid from the general fund of the county.

(Enacted by Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(27), effective September 1, 2005 (renumbered from Sec. 54.1154).)

Sec. 54.1175. Powers.

Except as limited by an order of the county judge, a magistrate appointed under this subchapter may:

(1) conduct hearings and trials, including jury trials;

(2) hear evidence;

(3) compel production of relevant evidence, including books, papers, vouchers, documents, and other writings;

(4) rule on admissibility of evidence;

(5) issue summons and attachments for the appearance of witnesses;

(6) examine witnesses;

(7) swear witnesses for hearings and trials; and

(8) perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the county judge.

(Enacted by Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(27), effective September 1, 2005 (renumbered from Sec. 54.1155).)

Sec. 54.1176. Papers Transmitted to Judge.

(a) At the conclusion of a hearing, the magistrate shall transmit to the judge any papers relating to the case, including:

(1) the magistrate's findings and recommendations; and

(2) a statement that notice of the findings and recommendations and of the right to a hearing before the judge has been given to all parties.

(b) The judge shall adopt, modify, or reject the magistrate's recommendations not later than the third working day after the date the judge receives the recommendations. If the judge does not take action in the time provided by this subsection, the recommendations of the magistrate are adopted by the judge.

(c) The judge shall send written notice of any modification or rejection of the magistrate's recommendations to each party to the case.

(Enacted by Acts 2003, 78th Leg., ch. 137 (S.B. 358), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(27), effective September 1, 2005 (renumbered from Sec. 54.1156); am. Acts 2011, 82nd Leg., ch. 187 (S.B. 1242), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 187 (S.B. 1242), § 3 provides: "The changes in law made by this Act to Subsection (b), Section 54.1176, Government Code, apply to a cause of action referred to a magistrate on or after the effective date of this Act [September 1, 2011]. A cause of action referred to a magistrate before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Sec. 54.1177. Judicial Immunity.

A magistrate appointed under this subchapter has the same judicial immunity as a district judge.

(Enacted by Acts 2011, 82nd Leg., ch. 187 (S.B. 1242), § 2, effective September 1, 2011.)

TITLE 3
LEGISLATIVE BRANCH

SUBTITLE C
LEGISLATIVE AGENCIES AND OVERSIGHT COMMITTEES

CHAPTER 322
LEGISLATIVE BUDGET BOARD

Section

Sec. 322.013. Review of Educational Policy Implementation.

(a) The standing committees of the senate and house of representatives with primary jurisdiction over the public school system shall oversee and review the implementation of legislative education policy by state agencies that have the statutory duty to implement that policy, including policy relating to:

(1) fiscal matters;

(2) academic expectations; and

(3) evaluation of program cost-effectiveness.

(b) The committees shall periodically review the actions or proposed actions of the State Board of Education for the purpose of ensuring compliance with legislative intent. If a committee determines that any action or proposed action of the State Board of Education conflicts with legislative educational policy, the committee shall submit its comments on the conflict to the State Board of Education in writing. If a committee determines that a final action of the board conflicts with the intent of legislative educational policy, the committee may:

(1) request additional information from the State Board of Education relating to the intent of the board's action;

(2) request a joint meeting with the State Board of Education to discuss the conflict between the action and legislative educational policy;

(3) request that the State Board of Education reconsider its action; or

(4) notify the governor, lieutenant governor, speaker of the house, and the legislature of the conflict presented.

(c) The board shall assist the committees in administering this section.

(d) For purposes of carrying out its duties, the board may administer oaths and issue subpoenas, signed by either of the joint chairs of the board, to compel the attendance of witnesses and the production of books, records, and documents. A subpoena of the board shall be served by a peace officer in the manner in which district court subpoenas are served. On application of the board, a district court of Travis County shall compel compliance with a subpoena issued by the board in the same manner as for district court subpoenas.

(Enacted by Acts 1993, 73rd Leg., ch. 520 (H.B. 617), § 24, effective September 1, 1993; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.07, effective January 11, 2004.)

Sec. 322.015. Review of Interscholastic Competition.

The board may periodically review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of an organization that is a component or part of a state agency or institution and that sanctions or conducts interscholastic competition. The board shall report the findings to the governor and the legislature. The legislature may consider the board's reports in connection with the legislative appropriations process.

(Enacted by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.09, effective January 11, 2004.)

Sec. 322.016. Performance Review of School Districts.

(a) The board may periodically review the effectiveness and efficiency of the operations of school districts, including the district's expenditures for its officers' and employees' travel services. A review of a school district may be initiated by the board at its discretion or on the request of the school district. A review may be initiated by a school district only by resolution adopted by a majority of the members of the board of trustees of the district.

(b) If a review is initiated on the request of the school district, the district shall pay 25 percent of the cost incurred in conducting the review.

(c) The board shall:

(1) prepare a report showing the results of each review conducted under this section;

(2) file the report with the school district, the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and the house of representatives with jurisdiction over public education, and the commissioner of education; and

(3) make the entire report and a summary of the report available to the public on the Internet.

(d) Until the board has completed a review under this section, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

(Enacted by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.09, effective January 11, 2004; am. Acts 2005, 79th Leg., ch. 741 (H.B. 2753), § 5, effective June 17, 2005.)

Sec. 322.0165. Performance Review of Institutions of Higher Education.

(a) In this section, "public junior college" and "general academic teaching institution" have the meanings assigned by Section 61.003, Education Code.

(b) The board may periodically review the effectiveness and efficiency of the budgets and operations of:

(1) public junior colleges; and

(2) general academic teaching institutions.

(c) A review under this section may be initiated by the board or at the request of:

(1) the governor; or

(2) the public junior college or general academic teaching institution.

(d) A review may be initiated by a public junior college or general academic teaching institution only at the request of the president of the college or institution or by a resolution adopted by a majority of the governing body of the college or institution.

(e) If a review is initiated by a public junior college or general academic teaching institution, the college or institution shall pay 25 percent of the cost incurred in conducting the review.

(f) The board shall:

(1) prepare a report showing the results of each review conducted under this section;

(2) file the report with:

(A) the chief executive officer of the public junior college or general academic teaching institution that is the subject of the report; and

(B) the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and of the house of representatives with primary jurisdiction over higher education, and the commissioner of higher education; and

(3) make the entire report and a summary of the report available to the public on the Internet.

(g) Until the board has completed a review under this section, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

(Enacted by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 6.09, effective January 11, 2004; am. Acts 2005, 79th Leg., ch. 741 (H.B. 2753), § 6, effective June 17, 2005.)

TITLE 4
EXECUTIVE BRANCH

SUBTITLE A
EXECUTIVE OFFICERS

CHAPTER 403
COMPTROLLER OF PUBLIC ACCOUNTS

Subchapter B. General Powers and Duties

Subchapter G. Funds

Subchapter M. Study of School District Property Values

SUBCHAPTER B
GENERAL POWERS AND DUTIES

Sec. 403.0232. Credit or Debit Card Agreement Benefiting Public Schools.

(a) In this section, "debit card" includes a prepaid debit card.

(b) The comptroller may enter an agreement with a credit or debit card issuer under which:

(1) the issuer is required to pay to the comptroller an amount of money based on the use of the credit or debit card by the cardholders; and

(2) the issuer is permitted to:

(A) represent to the public that use of the credit or debit card benefits public schools; and

(B) design credit or debit cards issued under the agreement to indicate that benefit.

(c) The form of any representation of benefit to public schools and the design of credit or debit cards issued under the agreement must be approved by the comptroller.

(d) In evaluating an issuer's proposal to enter into an agreement under this section, the comptroller shall consider:

(1) the financial stability of the issuer;

(2) whether the proposal offers the best available financial terms for the state and cardholders;

(3) the strength of the marketing effort to be made by the issuer and its marketing partners; and

(4) other issues the comptroller determines are appropriate.

(e) The agreement between the comptroller and the issuer must allow the cardholder to designate a particular school district as the recipient of money generated by the cardholder's credit or debit card use and should to the extent practicable allow the cardholder to designate a particular school. If the cardholder does not designate a particular school district or school, the comptroller shall deposit money received under this section to the credit of the foundation school fund.

(Enacted by Acts 2003, 78th Leg., ch. 351 (S.B. 966), § 1, effective June 18, 2003.)

SUBCHAPTER G
FUNDS

Sec. 403.103. School Taxing Ability Protection Fund.

The school taxing ability protection fund is a special fund in the state treasury. Money in the fund may be appropriated to finance formulas designed to protect school districts against estimated revenue losses resulting from implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of the Texas Constitution and shall be allocated to school districts on the basis of formulas, conditions, and limitations prescribed by law.

(Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987.)

SUBCHAPTER M
STUDY OF SCHOOL DISTRICT PROPERTY VALUES

Sec. 403.301. Purpose.

It is the policy of this state to ensure equity among taxpayers in the burden of school district taxes and among school districts in the distribution of state financial aid for public education. The purpose of this subchapter is to promote that policy by providing for uniformity in local property appraisal practices and procedures and in the determination of property values for schools in order to distribute state funding equitably.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 2003, 78th Leg., ch. 1183 (S.B. 671), § 1, effective June 20, 2003.)

Sec. 403.3011. Definitions.

In this subchapter:

(1) "Study" means a study conducted under Section 403.302.

(2) "Eligible school district" means a school district for which the comptroller has determined the following:

(A) in the most recent study, the local value is invalid under Section 403.302(c) and does not exceed the state value for the school district determined in the study;

(B) in the two studies preceding the most recent study, the school district's local value was valid under Section 403.302(c);

(C) in the most recent study, the aggregate local value of all of the categories of property sampled by the comptroller is not less than 90 percent of the lower limit of the margin of error as determined by the comptroller of the aggregate value as determined by the comptroller of all of the categories of property sampled by the comptroller; and

(D) the appraisal district that appraises property for the school district was in compliance with the scoring requirement of the comptroller's most recent review of the appraisal district conducted under Section 5.102, Tax Code.

(3) "Local value" means the market value of property in a school district as determined by the

appraisal district that appraises property for the school district, less the total amounts and values listed in Section 403.302(d) as determined by that appraisal district.

(4) "State value" means the value of property in a school district as determined in a study.

(Am. Acts 2003, 78th Leg., ch. 1183 (S.B. 671), § 2, effective June 20, 2003; am. Acts 2009, 81st Leg., ch. 288 (H.B. 8), § 1, effective January 1, 2010.)

Sec. 403.302. Determination of School District Property Values.

(a) The comptroller shall conduct a study using comparable sales and generally accepted auditing and sampling techniques to determine the total taxable value of all property in each school district. The study shall determine the taxable value of all property and of each category of property in the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 41, Education Code.

(a-1) The comptroller shall conduct a study:

(1) at least every two years in each school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was valid; and

(2) each year in a school district for which the most recent study resulted in a determination by the comptroller that the school district's local value was not valid.

(a-2) If in any year the comptroller does not conduct a study, the school district's local value for that year is considered to be valid.

(b) In conducting the study, the comptroller shall determine the taxable value of property in each school district:

(1) using, if appropriate, samples selected through generally accepted sampling techniques;

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques;

(3) ensuring that different levels of appraisal on sold and unsold property do not adversely affect the accuracy of the study; and

(4) ensuring that different levels of appraisal resulting from protests determined under Section 41.43, Tax Code, are appropriately adjusted in the study.

(c) If after conducting the study the comptroller determines that the local value for a school district is valid, the local value is presumed to represent taxable value for the school district. In the absence of that presumption, taxable value for a school district is the state value for the school district determined by the comptroller under Subsections (a) and (b) unless the local value exceeds the state value, in which case the taxable value for the school district is the district's local value. In determining whether the local value for a school district is valid, the comptroller shall use a margin of error that does not exceed five percent unless the comptroller determines that the size of the sample of properties necessary to make the determination makes the use of such a margin of error not feasible, in which case the comptroller may use a larger margin of error.

(c-1) This subsection applies only to a school district whose central administrative office is located in a county with a population of 9,000 or less and a total area of more than 6,000 square miles. If after conducting the study for a tax year the comptroller determines that the local value for a school district is not valid, the comptroller shall adjust the taxable value determined under Subsections (a) and (b) as follows:

(1) for each category of property sampled and tested by the comptroller in the school district, the comptroller shall use the weighted mean appraisal ratio determined by the study, unless the ratio is more than four percentage points lower than the weighted mean appraisal ratio determined by the comptroller for that category of property in the immediately preceding study, in which case the comptroller shall use the weighted mean appraisal ratio determined in the immediately preceding study minus four percentage points;

(2) the comptroller shall use the category weighted mean appraisal ratios as adjusted under Subdivision (1) to establish a value estimate for each category of property sampled and tested by the comptroller in the school district; and

(3) the value estimates established under Subdivision (2), together with the local tax roll value for any categories not sampled and tested by the comptroller, less total deductions determined by the comptroller, determine the taxable value for the school district.

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by former Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state, other than Section 11.311, Tax Code, that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code, before the expiration of the subchapter;

(10) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(d-1) **[2 Versions: Effective Until January 1, 2014, Contingent on Voter Approval]** For purposes of Subsection (d), a residence homestead that receives an exemption under Section 11.131, Tax Code, in the year that is the subject of the study is not considered to be taxable property.

(d-1) **[2 Versions: Effective January 1, 2014, Contingent on Voter Approval of H.J. R. No. 62—See Editor's Note]** For purposes of Subsection (d), a residence homestead that receives an exemption under Section 11.131 or 11.132, Tax Code, in the year that is the subject of the study is not considered to be taxable property.

(e) The total dollar amount deducted in each year as required by Subsection (d)(4) in a reinvestment zone created after January 1, 1999, may not exceed the captured appraised value estimated for that year as required by Section 311.011(c)(8), Tax Code,

in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The number of years for which the total dollar amount may be deducted under Subsection (d)(4) shall for any zone, including those created on or before January 1, 1999, be limited to the duration of the zone as specified as required by Section 311.011(c)(9), Tax Code, in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The total dollar amount deducted under Subsection (d)(4) for any zone, including those created on or before January 1, 1999, may not be increased by any reinvestment zone financing plan amendments that occur after August 31, 1999. The total dollar amount deducted under Subsection (d)(4) for any zone, including those created on or before January 1, 1999, may not be increased by a change made after August 31, 1999, in the portion of the tax increment retained by the school district.

(e-1) This subsection applies only to a reinvestment zone created by a municipality that has a population of 70,000 or less and is located in a county in which all or part of a military installation is located. Notwithstanding Subsection (e), if on or after January 1, 2017, the municipality adopts an ordinance designating a termination date for the zone that is later than the termination date designated in the ordinance creating the zone, the number of years for which the total dollar amount may be deducted under Subsection (d)(4) is limited to the duration of the zone as determined under Section 311.017, Tax Code.

(f) The study shall determine the values as of January 1 of each year:

(1) for a school district in which a study was conducted according to the results of the study; and

(2) for a school district in which a study was not conducted according to the market value determined by the appraisal district that appraises property for the district, less the amounts specified by Subsection (d).

(g) The comptroller shall publish preliminary findings, listing values by district, before February 1 of the year following the year of the study. Preliminary findings shall be delivered to each school district and shall be certified to the commissioner of education.

(h) On request of the commissioner of education or a school district, the comptroller may audit the total taxable value of property in a school district and may revise the study findings. The request for audit is limited to corrections and changes in a school district's appraisal roll that occurred after preliminary certification of the study findings by the comptroller. Except as otherwise provided by this subsection, the request for audit must be filed with the comptroller not later than the third anniversary of the date of the final certification of the study findings. The request for audit may be filed not later than the first anniversary of the date the chief appraiser certifies a change to the appraisal roll if the chief appraiser corrects the appraisal roll under Section 25.25 or 42.41, Tax Code, and the change results in a material reduction in the total taxable value of property in the school district. The comptroller shall certify the findings of the audit to the commissioner of education.

(i) If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

(j) For purposes of Chapter 42, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of $5,000;

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of $15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII,

Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997; and

(3) a final value for each school district computed on the effect of the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, as applicable.

(j-1) [Expired pursuant to Acts 2007, 80th Leg., ch. 19 (H.B. 5), § 4, effective September 1, 2008.]

(k) For purposes of Section 42.2522, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code; and

(2) a final value for each school district computed after deducting one-half the total dollar amount of residence homestead exemptions granted under Section 11.13(n), Tax Code.

(*l*) If after conducting the study for a year the comptroller determines that a school district is an eligible school district, for that year and the following year the taxable value for the school district is the district's local value.

(m) Subsection (d)(9) does not apply to property that was the subject of an application under Subchapter B or C, Chapter 313, Tax Code, made after May 1, 2009, that the comptroller recommended should be disapproved.

(m-1) The Comptroller's Property Value Study Advisory Committee is created. The committee is composed of:

(1) one member of the house of representatives, appointed by the speaker of the house of representatives;

(2) one member of the senate, appointed by the lieutenant governor;

(3) two members who represent appraisal districts, appointed by the comptroller;

(4) two members who represent school districts, appointed by the comptroller; and

(5) three members appointed by the comptroller who are residents of this state and are school district taxpayers or have expertise in school district taxation or ratio studies.

(n) Chapter 2110 does not apply to the size, composition, or duration of the Comptroller's Property Value Study Advisory Committee.

(*o*) The comptroller shall adopt rules governing the conduct of the study after consultation with the Comptroller's Property Value Study Advisory Committee.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 1.07, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 44, effective January 1, 1998; am. Acts 1997, 75th Leg., ch. 1040 (S.B. 862), § 63, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1071 (S.B. 1873), § 27, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.04, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 1.36, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(b), effective August 31, 1999; am. Acts 1999, 76th Leg., ch. 983 (H.B. 2684), §§ 9, 10, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 1467 (H.B. 3211), § 1.19, effective June 19, 1999; am. Acts 1999, 76th Leg., ch. 1525 (S.B. 868), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 9.005(a), (b), effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 7, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 411 (H.B. 217), § 7, effective January 1, 2004; am. Acts 2003, 78th Leg., ch. 1183 (S.B. 671), § 3, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.004, effective September 1, 2003; am. Acts 2003, 78th Leg., 3rd C.S., ch. 10 (H.B. 28), §§ 3.01, 3.02, effective October 20, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.17, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 19 (H.B. 5), § 4, effective May 12, 2007; am. Acts 2007, 80th Leg., ch. 764 (H.B. 3492), § 1, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 830 (H.B. 621), § 3, effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 1341 (S.B. 1908), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 288 (H.B. 8), § 2, effective January 1, 2010; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 13, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 80, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1405 (H.B. 3613), § 1(e), effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), §§ 11.003, 11.004, 27.001(14), effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 350 (H.B. 3465), § 1, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1032 (H.B. 2853), §§ 19, 20, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 7, effective January 1, 2014; am. Acts 2013, 83rd Leg., ch. 964 (H.B. 1897), § 4, effective September 1, 2013.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 9 provides: "This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, (H.J.R. No. 62), authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action is approved by the voters. If that amendment is not approved by the voters, this Act has no effect."

Applicability. — Acts 2009, 81st Leg., ch. 288 (H.B. 8), § 13 provides: "The change in law made by this Act applies only to a study conducted under Section 5.10, Tax Code, or Section 403.302, Government Code, or a review conducted under Section 5.102, Tax Code, for a year that begins on or after January 1, 2009. A study or review for a year that began before that date is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Acts 2009, 81st Leg., ch. 1405 (H.B. 3613), § 4 provides: "This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act [June 19, 2009]."

Acts 2011, 82nd Leg., ch. 1032 (H.B. 2853), § 22(b) provides: "Subsection (a) of this section does not apply to any matter that on the 30th day after the effective date of this Act [June 17, 2011]:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court."

Sec. 403.303. Protest.

(a) A school district or a property owner whose property is included in the study under Section 403.302 and whose tax liability on the property is $100,000 or more may protest the comptroller's findings under Section 403.302(g) or (h) by filing a petition with the comptroller. The petition must be filed not later than the 40th day after the date on which the comptroller's findings are certified to the commissioner of education and must specify the grounds for objection and the value claimed to be correct by the school district or property owner.

(b) After receipt of a petition, the comptroller shall hold a hearing. The comptroller has the burden to prove the accuracy of the findings. Until a final decision is made by the comptroller, the taxable value of property in the district is determined, with respect to property subject to the protest, according to the value claimed by the school district or property owner, except that the value to be used while a final decision is pending may not be less than the appraisal roll value for the year of the study. If after a hearing the comptroller concludes that the findings should be changed, the comptroller shall order the appropriate changes and shall certify to the commissioner of education the changes in the values of the school district that brought the protest, the values of the school district named by the property owner who brought the protest, or, if the comptroller by rule allows an appraisal district to bring a protest, the values of the school district named by the appraisal district that brought the protest. The comptroller may not order a change in the values of a school district as a result of a protest brought by another school district, a property owner in the other school district, or an appraisal district that appraises property for the other school district. The comptroller shall complete all protest hearings and certify all changes as necessary to comply with Chapter 42, Education Code. A hearing conducted under this subsection is not a contested case for purposes of Section 2001.003.

(c) The comptroller shall adopt procedural rules governing the conduct of protest hearings. The rules shall provide each protesting school district and property owner with the requirements for submitting a petition initiating a protest and shall provide each protesting school district and property owner with adequate notice of a hearing, an opportunity to present evidence and oral argument, and notice of the comptroller's decision on the hearing.

(d) A protesting school district may appeal a determination of a protest by the comptroller to a district court of Travis County by filing a petition with the court. An appeal must be filed not later than the 30th day after the date the school district receives notification of a final decision on a protest. Review is conducted by the court sitting without a jury. The court shall remand the determination to the comptroller if on the review the court discovers that substantial rights of the school district have been prejudiced, and that:

(1) the comptroller has acted arbitrarily and without regard to the facts; or

(2) the finding of the comptroller is not reasonably supported by substantial evidence introduced before the court.

(e) If, in a hearing under Subsection (b), the comptroller has not heard the case or read the record, the decision may not be made until a proposal for decision is served on each party and an opportunity to file exceptions is afforded to each party adversely affected. If exceptions are filed, an opportunity must be afforded to all other parties to file replies to the exceptions. The proposal for decision must contain a statement of the reasons for the proposed decision, prepared by the person who conducted the hearing or by a person who has read the record. The proposal for decision may be amended pursuant to the exceptions or replies submitted without again being served on the parties. The parties by written stipulation may waive compliance with this subsection. The comptroller may adopt rules to implement this subsection.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1040 (S.B. 862), § 64, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 574 (S.B. 521), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 983 (H.B. 2684), § 11, effective June 18, 1999; am. Acts 2005, 79th Leg., ch. 412 (S.B. 1652), § 1, effective September 1, 2005.)

Sec. 403.304. Cooperation with Comptroller; Confidentiality.

(a) A school district, appraisal district, or other governmental entity in this state shall promptly comply with an oral or written request from the

comptroller for information to be used in conducting a study, including information that is made confidential by Chapter 552 of this code, Section 22.27, Tax Code, or another law of this state.

(a-1) All information the comptroller obtains from a person, other than a government or governmental subdivision or agency, under an assurance that the information will be kept confidential, in the course of conducting a study is confidential and may not be disclosed except as provided in Subsection (b).

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who gave the information to the comptroller; or

(3) for statistical purposes if in a form that does not identify specific property or a specific property owner.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 26, effective May 30, 1995; am. Acts 2009, 81st Leg., ch. 288 (H.B. 8), §§ 3, 4, effective January 1, 2010.)

SUBTITLE B
LAW ENFORCEMENT AND PUBLIC PROTECTION

CHAPTER 411
DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS

Subchapter F. Criminal History Record Information

SUBCHAPTER F
CRIMINAL HISTORY RECORD INFORMATION

Sec. 411.0845. Criminal History Clearinghouse.

(a) The department shall establish an electronic clearinghouse and subscription service to provide criminal history record information to a particular person entitled to receive criminal history record information and updates to a particular record to which the person has subscribed under this subchapter.

(b) On receiving a request for criminal history record information from a person entitled to such information under this subchapter, the department shall provide through the electronic clearinghouse:

(1) the criminal history record information reported to the department or the Federal Bureau of Investigation relating to the individual who is the subject of the request; or

(2) a statement that the individual who is the subject of the request does not have any criminal history record information reported to the department or the Federal Bureau of Investigation.

(c) If the department provides information received from the Federal Bureau of Investigation, the department must include with the information the date the department received information from the Federal Bureau of Investigation.

(d) The department shall ensure that the information described by Subsection (b) is provided only to a person otherwise entitled to obtain criminal history record information under this subchapter. Information collected under this section is confidential and is not subject to disclosure under Chapter 552.

(e) A person entitled to receive criminal history record information under this section must provide the department with the following information regarding the person who is the subject of the criminal history record information requested:

(1) the person's full name, date of birth, sex, and social security number, and the number assigned to any form of unexpired identification card issued by this state or another state, the District of Columbia, or a territory of the United States that includes the person's photograph;

(2) a recent electronic digital image photograph of the person and a complete set of the person's fingerprints as required by the department; and

(3) any other information required by the department.

(f) The department shall maintain an Internet website for the administration of the clearinghouse and an electronic subscription service to provide notice of updates to a particular criminal history record to each person entitled under this subchapter to receive criminal history record information updates to that particular record. The department shall update clearinghouse records as a result of any change in information discovered by the department. Within 48 hours after the department becomes aware that a person's criminal history record information in a clearinghouse record has changed, the department shall provide notice of the updated information only to each subscriber to that specific record.

(g) As soon as practicable, a subscriber who is no longer entitled to receive criminal history record information relating to a particular person shall notify the department. The department shall cancel the person's subscription to that record and may not notify the former subscriber of any updated information to that record.

(h) A person who is the subject of the criminal history record information requested under this section must consent to the release of the information.

(i) The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation, including the computerized information submitted to the federal database maintained by the Federal Bureau of Investigation as described by Section 411.042(b)(9)(B), is subject to federal law and regulations, federal executive orders, and federal policy.

(j) The department may charge a fee for subscription services to cover the costs of administering this section.

(k) A governmental agency may coordinate with the department regarding the use of the fingerprinting fee collection process to collect a fee for the criminal history record information and any other fees associated with obtaining a person's fingerprints as required by the department.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 18, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 10.04, effective June 19, 2009.)

Sec. 411.090. Access to Criminal History Record Information: State Board for Educator Certification.

(a) The State Board for Educator Certification is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the board for a certificate under Subchapter B, Chapter 21, Education Code.

(b) Criminal history record information obtained by the board in the original form or any subsequent form:

(1) may be used only for a purpose related to the issuance, denial, suspension, or cancellation of a certificate issued by the board;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the Texas Education Agency;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by court order;

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the board after the information is used for the authorized purposes.

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department. Any record of the notification and any information contained in the notification is not subject to disclosure as provided by Chapter 552.

(Enacted by Acts 1993, 73rd Leg., ch. 790 (S.B. 510), § 35, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 27, effective May 30, 1995; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 20, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.02, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.06 provides: "The change in law made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article :September 1, 2009].".

Sec. 411.0901. Access to Criminal History Record Information: Texas Education Agency.

(a) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(3) is employed or is an applicant for employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement if:

(A) the employee or applicant has or will have continuing duties relating to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

(b) Criminal history record information obtained by the agency in the original form or any subsequent form:

(1) may be used only for a purpose authorized by the Education Code;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the State Board for Educator Certification;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by court order;

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the agency after the information is used for the authorized purposes.

(Enacted by Acts 2007, 80th Leg., ch. 1372 (S.B. 9), § 21, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.03, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.06 provides: "The change in law made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article :September 1, 2009]."

Sec. 411.097. Access to Criminal History Record Information: Local and Regional Educational Entities.

(a) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement, or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, shared services arrangement, or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1) an applicant for employment by the district, school, service center, or shared services arrangement;

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported; or

(3) an employee of or applicant for employment by an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834, Education Code.

(b) A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer, student teacher, or employee of the district, school, service center, or shared services arrangement.

(c) An open-enrollment charter school is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a member of the governing body of the school, as defined by Section 12.1012, Education Code; or

(2) has agreed to serve as a member of the governing body of the school.

(d) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement in the original form or any subsequent form:

(1) may not be released to any person except:

(A) the individual who is the subject of the information;

(B) the Texas Education Agency;

(C) the State Board for Educator Certification;

(D) the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E) by court order;

(2) is not subject to disclosure as provided by Chapter 552; and

(3) shall be destroyed by the school district, charter school, private school, service center, commercial transportation company, or shared services arrangement on the earlier of:

(A) the first anniversary of the date the information was originally obtained; or

(B) the date the information is used for the authorized purpose.

(e) If a regional education service center or commercial transportation company that receives criminal history record information from the department under this section requests the information by providing to the department a list, including the name, date of birth, and any other personal descriptive information required by the department for each person, through electronic means, magnetic tape, or disk, as specified by the department, the department may not charge the service center or commercial transportation company more than the lesser of:

(1) the department's cost for providing the information; or

(2) the amount prescribed by another law.

(f) An employee of a school district, charter school, private school, regional education service

center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record information.

(Enacted by Acts 1993, 73rd Leg., ch. 790 (S.B. 510), § 35, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 27, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 13, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 33, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), §§ 22, 23, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.04, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 9A.06 provides: "The change in law made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article [September 1, 2009]."

CHAPTER 418
EMERGENCY MANAGEMENT

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 418.004. Definitions.

In this chapter:

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

(2) "Division" means the Texas Division of Emergency Management.

(3) "Energy emergency" means a temporary statewide, regional, or local shortage of petroleum, natural gas, or liquid fuel energy supplies that makes emergency measures necessary to reduce demand or allocate supply.

(4) "Interjurisdictional agency" means a disaster agency maintained by and serving more than one political subdivision.

(5) "Organized volunteer group" means an organization such as the American National Red Cross, the Salvation Army, the Civil Air Patrol, the Radio Amateur Civil Emergency Services, a volunteer fire department, a volunteer rescue squad, or other similar organization recognized by federal or state statute, regulation, or memorandum.

(6) "Political subdivision" means a county or incorporated city.

(6-a) "Public facility" has the meaning assigned by Section 102, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5122).

(7) "Temporary housing" has the meaning assigned by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, as amended.

(8) "Joint board" means a board created under Section 22.074, Transportation Code, whose constituent agencies are populous home-rule municipalities as defined by Section 22.071, Transportation Code.

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

(10) "Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the

laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the system.

(14) "System" means the Texas Statewide Mutual Aid System.

(Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1995, 74th Leg., ch. 497 (S.B. 1695), § 1, effective June 12, 1995; am. Acts 1997, 75th Leg., ch. 992 (H.B. 3074), § 2, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 33 (S.B. 756), § 1, effective May 14, 2003; am. Acts 2003, 78th Leg., ch. 72 (S.B. 985), § 1, effective May 16, 2003; am. Acts 2005, 79th Leg., ch. 1337 (S.B. 9), § 6, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), §§ 1.01, 1.08, effective June 6, 2007; am. Acts 2007, 80th Leg., ch. 865 (H.B. 1471), §§ 1.01, 1.08, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 185 (H.B. 1998), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 2A.01, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), §§ 1.01, 6.14, effective September 1, 2009.)

SUBCHAPTER E
LOCAL AND INTERJURISDICTIONAL EMERGENCY MANAGEMENT

Sec. 418.107. Local Finance.

(a) A political subdivision may make appropriations for emergency management services as provided by law for making appropriations for ordinary expenses.

(b) Political subdivisions may make agreements for the purpose of organizing emergency management service divisions and provide for a mutual method of financing the organization of units on a basis satisfactory to the subdivisions.

(c) A local government entity may render mutual aid to other local government entities under mutual aid agreements or the system.

(d) A political subdivision may issue time warrants for the payment of the cost of any equipment, construction, acquisition, or any improvements for carrying out this chapter. The warrants shall be issued in accordance with Chapter 252, Local Government Code, in the case of a municipality, or Subchapter C, Chapter 262, Local Government Code, in the case of a county. Time warrants issued for financing permanent construction or improvement for emergency management purposes are subject to the right of the voters to require a referendum vote under Section 252.045 or 262.029, Local Government Code, as applicable.

(Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 30, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 1337 (S.B. 9), § 7, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.03, effective June 6, 2007; am. Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.03, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 1.12, effective September 1, 2009.)

Sec. 418.109. Authority to Render Mutual Aid Assistance.

(a) to (c) [Repealed by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.08, effective June 6, 2007 and by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.08, effective June 15, 2007.]

(d) A local government entity or organized volunteer group may provide mutual aid assistance on request from another local government entity or organized volunteer group. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity.

(Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1995, 74th Leg., ch. 497 (S.B. 1695), § 2, effective June 12, 1995; am. Acts 2003, 78th Leg., ch. 1204 (S.B. 1021), § 2.002, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1337 (S.B. 9), § 8, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), §§ 1.04, 1.05, 1.08, effective June 6, 2007; am. Acts 2007, 80th Leg., ch. 865 (H.B. 1471), §§ 1.04, 1.05, 1.08, effective June 15, 2007.)

SUBCHAPTER E-1
TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. Creation of the Texas Statewide Mutual Aid System.

(a) The Texas Statewide Mutual Aid System is established to provide integrated statewide mutual

aid response capability between local government entities without a written mutual aid agreement.

(b) A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to a written mutual aid agreement in effect when the request is made.

(c) This subchapter does not affect a written mutual aid agreement between local government entities in effect on or before the effective date of this subchapter or restrict the ability of local government entities to enter into a written mutual aid agreement as otherwise authorized by statute after the effective date of this subchapter. If a request is made between local government entities that are parties to a written mutual aid agreement, the terms of that agreement control the rights and obligations of the parties.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; Enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.112. Administration by Division.

The division shall administer the system. In administering the system, the division shall encourage and assist political subdivisions in planning and implementing comprehensive all-hazards emergency management programs, including assisting political subdivisions to ensure that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of mutual aid.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; Enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.113. Disaster Districts.

(a) This state is divided into disaster districts to engage in homeland security preparedness and response activities. The boundaries of the disaster districts coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391, Local Government Code.

(b) A disaster district committee is established for each disaster district. Each committee is composed of local representatives of the state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Each disaster district committee shall coordinate with political subdivisions located in the disaster district to ensure that state and federal emergency assets are made available as needed to provide the most efficient and effective response possible.

(d) The public safety director of the Department of Public Safety of the State of Texas shall appoint a commanding officer from the Texas Highway Patrol to serve as chair of each disaster district committee. The chair shall:

(1) inform the state Director of Homeland Security on all matters relating to disasters and emergencies as requested by the state Director of Homeland Security; and

(2) inform the public safety director of the Department of Public Safety of the State of Texas on all matters as requested by the public safety director.

(e) Representatives of the emergency management council assigned to each district shall assist the chair of their disaster district committee and provide guidance, counsel, and administrative support as required.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; Enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.114. Procedures for Mutual Aid [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 708 (H.B. 3178), § 3, effective June 14, 2013.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.115. Requesting and Providing Mutual Aid Assistance.

(a) A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing.

(b) If a request for mutual aid assistance is made to a department or agency of a political subdivision, the chief or highest ranking officer of the department or agency, with the approval and consent of the presiding officer of the governing body of the political subdivision or that officer's designee, may provide the requested assistance in accordance with the policies, ordinances, and procedures established by the governing body of the political subdivision.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 708 (H.B. 3178), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 708 (H.B. 3178), § 4 provides: "Sections 418.115(a) and 418.1181(a), Government Code,

as amended by this Act, apply only to mutual aid assistance requested on or after the effective date of this Act [June 14, 2013]. Mutual aid assistance requested before the effective date of this Act is governed by the law in effect on the date the aid was requested, and the former law is continued in effect for that purpose."

Sec. 418.1151. Assessment of Ability to Render Assistance.

(a) When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

(b) A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.1152. Supervision and Control.

When providing mutual aid assistance under the system:

(1) the response effort must be organized and function in accordance with the National Incident Management System guidelines;

(2) the personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

(3) direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

(4) unless otherwise agreed in advance, an emergency medical service organization providing assistance under the system shall use the medical protocols authorized by the organization's medical director;

(5) the designated supervisory personnel of the responding local government entity shall:

(A) maintain daily personnel time records, material records, and a log of equipment hours;

(B) be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and

(C) report work progress to the requesting local government entity; and

(6) the responding local government entity's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.1153. Duration of Aid.

The provision of mutual aid assistance under the system may continue until:

(1) the services of the responding local government entity are no longer required; or

(2) the responding local government entity determines that further assistance should not be provided.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.116. Rights and Privileges.

(a) A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the system is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

(b) The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.117. License Portability.

If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a state agency or local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting state agency or local government entity.

(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 1.14, effective September 1, 2009.)

Sec. 418.118. Reimbursement of Costs: State Request or Federal Disaster Declaration.

(a) The division shall administer all requests for reimbursement for costs associated with providing mutual aid assistance in response to a request made by the division for an incident resulting in the issuance of a disaster declaration by the president of the United States. A request for reimbursement made to the division must be made in accordance with procedures developed by the division.

(b) The division may directly request the provision of mutual aid assistance from any local government entity participating in the system. If the division requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. The state shall pay reimbursements from available state money. If funds are made available from the disaster contingency fund, the division shall make reimbursement from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate.

(c) If federal money is available to pay costs associated with the provision of mutual aid assistance in response to a request made by the division, the division shall make the claim for the eligible costs of the responding local government entity on the division's grant application and shall disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the actual costs incurred by the responding local government entity in providing the assistance.
(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007.)

Sec. 418.1181. Reimbursement of Costs: Request by Local Government Entity.

(a) If a local government entity requests mutual aid assistance from another local government entity under the system that requires a response that exceeds 12 consecutive hours, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Section 418.111.

(b) The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.
(Enacted by Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 1.07, effective June 6, 2007; enacted by Acts 2007, 80th Leg., ch. 865 (H.B. 1471), § 1.07, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 708 (H.B. 3178), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 708 (H.B. 3178), § 4 provides: "Sections 418.115(a) and 418.1181(a), Government Code, as amended by this Act, apply only to mutual aid assistance requested on or after the effective date of this Act [June 14, 2013]. Mutual aid assistance requested before the effective date of this Act is governed by the law in effect on the date the aid was requested, and the former law is continued in effect for that purpose."

SUBTITLE C
STATE MILITARY FORCES AND VETERANS

CHAPTER 431
STATE MILITIA

Subchapter A. General Provisions

Section

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 431.005. Leave of Absence for Public Officers and Employees [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1217 (S.B. 1536), § 4.01(1), effective September 1, 2013.
(Enacted by Acts 1987, 70th Leg., ch. 147 (S.B. 894), § 1, effective September 1, 1987; am. Acts 1989, 71st

Leg., ch. 441 (H.B. 1772), § 1, effective June 14, 1989; am. Acts 1989, 71st Leg., ch. 1257 (S.B. 949), effective October 1, 1989; am. Acts 2003, 78th Leg., ch. 175 (S.B. 1800), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 971 (S.B. 1669), § 1, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.003, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 10.01, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 672 (S.B. 1737), § 1, effective September 1, 2011.)

CHAPTER 434
VETERAN ASSISTANCE AGENCIES

Subchapter A. Texas Veterans Commission

Section

SUBCHAPTER A
TEXAS VETERANS COMMISSION

Sec. 434.0072. "TAPS" Tuition Voucher Program.

(a) In this section, "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(b) The commission shall establish a program to issue vouchers to be exchanged for an exemption from the payment of tuition and required fees at an institution of higher education as provided by Section 54.344, Education Code, to students in grades 6 through 12 or at postsecondary educational institutions who sound "Taps" on a bugle, trumpet, or cornet during military honors funerals held in this state for deceased veterans. A voucher must be issued in the amount of $25 for each time a student sounds "Taps" as described by this subsection.

(c) The commission by rule shall design a form for the vouchers and distribute the form, with an explanation of the form's use, to each funeral director in this state for issuance to a person who is eligible to receive a voucher under this section. The commission may not charge a fee for distribution of the form.

(d) The commission shall encourage a private or independent institution of higher education to grant a tuition and fee exemption in exchange for a voucher.

(e) A voucher issued under this section may be used by the student at any time and is not transferable.

(Enacted by Acts 2007, 80th Leg., ch. 660 (H.B. 1187), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 359 (S.B. 32), § 13, effective January 1, 2012.)

SUBTITLE E
OTHER EXECUTIVE AGENCIES AND PROGRAMS

CHAPTER 469
ELIMINATION OF ARCHITECTURAL BARRIERS

Subchapter A. General Provisions

Section

Subchapter B. Administration and Enforcement

Subchapter C. Review and Approval Required for Certain Plans and Specifications

Subchapter D. Waiver or Modification of Accessibility Standards

Subchapter E. Registration to Perform Reviews or Inspections

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 469.001. Scope of Chapter; Public Policy.

(a) The intent of this chapter is to ensure that each building and facility subject to this chapter is accessible to and functional for persons with disabilities without causing the loss of function, space, or facilities.

(b) This chapter relates to nonambulatory and semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(c) This chapter is intended to further the policy of this state to encourage and promote the rehabilitation of persons with disabilities and to eliminate, to the extent possible, unnecessary barriers encountered by persons with disabilities whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.002. Definitions.

In this chapter:

(1) "Architect" means a person registered as an architect under Chapter 1051, Occupations Code.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities.

(5) "Engineer" means a person licensed as an engineer under Chapter 1001, Occupations Code.

(6) "Executive director" means the executive director of the department.

(7) "Interior designer" means a person registered as an interior designer under Chapter 1053, Occupations Code.

(8) "Landscape architect" means a person registered as a landscape architect under Chapter 1052, Occupations Code.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.003. Applicability of Standards.

(a) The standards adopted under this chapter apply to:

(1) a building or facility used by the public that is constructed, renovated, or modified, in whole or in part, on or after January 1, 1970, using funds from the state or a county, municipality, or other political subdivision of the state;

(2) a building or facility described by this subsection or Subsection (b) that is constructed on a temporary or emergency basis;

(3) a building leased for use or occupied, in whole or in part, by the state under a lease or rental agreement entered into on or after January 1, 1972;

(4) a privately funded building or facility that is defined as a "public accommodation" by Section 301, Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), and its subsequent amendments, and that is constructed, renovated, or modified on or after January 1, 1992; and

(5) a privately funded building or facility that is defined as a "commercial facility" by Section 301, Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), and its subsequent amendments, and that is constructed, renovated, or modified on or after September 1, 1993.

(b) To the extent there is not a conflict with federal law and it is not beyond the state's regulatory power, the standards adopted under this chapter apply to a building or facility constructed in this state or leased or rented for use by the state using federal money.

(c) The standards adopted under this chapter do not apply to a place used primarily for religious rituals within a building or facility of a religious organization.

(d) If any portion of a building described by Subsection (a)(1) is occupied solely for residential use and the remaining occupied portion of the building is occupied for nonresidential use, the executive director shall consider only the nonresidential portion of the building in determining whether the building complies with the standards and specifications adopted under this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.004, effective September 1, 2005.)

Sec. 469.004. Applicability of Other Law.

Section 51.404, Occupations Code, does not apply to this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.005, effective September 1, 2005.)

SUBCHAPTER B ADMINISTRATION AND ENFORCEMENT

Sec. 469.051. Administration and Enforcement; Assistance of Other Agencies.

(a) The commission shall administer and enforce this chapter. The appropriate state rehabilitation agencies and the Governor's Committee on People with Disabilities shall assist the commission in the administration and enforcement of this chapter.

(b) In enforcing this chapter, the commission is entitled to the assistance of all appropriate elective or appointive state officials.

(c) The commission has all necessary powers to require compliance with the rules adopted under this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.052. Adoption of Standards and Specifications; Rulemaking.

(a) The commission shall adopt standards, specifications, and other rules under this chapter that are consistent with standards, specifications, and other rules adopted under federal law.

(b) The standards and specifications adopted by the commission under this chapter must be consistent in effect with the standards and specifications adopted by the American National Standards Institute or that entity's federally recognized successor in function.

(c) The department shall publish the standards and specifications in a readily accessible form for use by interested parties.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.053. Advisory Committee; Review of and Comment on Rules.

(a) The presiding officer of the commission, with the commission's approval, shall appoint an advisory committee for the architectural barriers program. The committee shall consist of building professionals and persons with disabilities who are familiar with architectural barrier problems and solutions. The committee shall consist of at least eight members. A majority of the members of the committee must be persons with disabilities.

(b) A committee member serves at the will of the presiding officer of the commission.

(c) A committee member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member.

(d) The presiding officer of the commission, with the commission's approval, shall appoint a committee member as presiding officer for two years.

(e) The committee shall meet at least twice each calendar year at the call of the presiding officer or the commission.

(f) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission.

(g) The commission must submit all proposed changes to any rule or procedure that relates to the architectural barriers program to the committee for review and comment before adopting or implementing the new or amended rule or procedure.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.006, effective September 1, 2005.)

Sec. 469.054. Fees in General.

(a) The commission shall adopt fees in accordance with Section 51.202, Occupations Code, for performing the commission's functions under this chapter.

(b) The owner of a building or facility is responsible for paying a fee charged by the commission for performing a function under this chapter related to the building or facility.

(c) The commission may charge a fee for:

(1) the review of the plans or specifications of a building or facility;

(2) the inspection of a building or facility; and

(3) the processing of an application for a variance from accessibility standards for a building or facility.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.055. Contract to Perform Review and Inspection.

The commission may contract with other state agencies and political subdivisions to perform the commission's review and inspection functions.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.056. Interagency Contracts.

A state agency that extends direct services to persons with disabilities may enter into an interagency contract with the department to provide additional funding required to ensure that the service objectives and responsibilities of the agency are achieved through the administration of this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.057. Duty to Inform About Law.

(a) The department periodically shall inform professional organizations and others, including persons with disabilities, architects, engineers, and other building professionals, of this chapter and its application.

(b) Information about the architectural barriers program disseminated by the department must include:

(1) the type of buildings and leases subject to this chapter;

(2) the procedures for submitting plans and specifications for review;

(3) complaint procedures; and

(4) the address and telephone number of the department's program under this chapter.

(c) The department may enter into cooperative agreements to integrate information about the architectural barriers program with information produced or distributed by other public entities or by private entities.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.058. Administrative Penalty.

(a) The commission may impose an administrative penalty under Subchapter F, Chapter 51, Occupations Code, on a building owner for a violation of this chapter or a rule adopted under this chapter.

(b) Each day that a violation is not corrected is a separate violation.

(c) Before the commission may impose an administrative penalty for a violation described by Subsection (a), the commission must notify a person responsible for the building and allow the person 90 days to bring the building into compliance. The commission may extend the 90-day period if circumstances justify the extension.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.059. Complaints.

(a) The department shall continue to monitor a complaint made under Section 51.252, Occupations Code, that alleges that a building or facility is not in compliance with the standards and specifications adopted by the commission under this chapter until the department determines that:

(1) the building or facility has been brought into compliance; or

(2) the building or facility is not required to be brought into compliance because of a rule or statute, including Section 469.151.

(b) If the building or facility is not required to be brought into compliance, the department shall, on final disposition of the complaint, notify in writing the person filing the complaint that the building or facility is not required to be brought into compliance because of a rule or statute and provide a reference to the rule or statute.

(c) The department, at least quarterly and for as long as the department continues to monitor the complaint under Subsection (a), shall notify the person filing the complaint of the status of the monitoring.

(Enacted by Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.007, effective September 1, 2005.)

SUBCHAPTER C
REVIEW AND APPROVAL REQUIRED FOR CERTAIN PLANS AND SPECIFICATIONS

Sec. 469.101. Submission for Review and Approval Required.

All plans and specifications for the construction of or for the substantial renovation or modification of a building or facility must be submitted to the department for review and approval if:

(1) the building or facility is subject to this chapter; and

(2) the estimated construction cost is at least $50,000.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.102. Procedure for Submitting Plans and Specifications.

(a) The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the plans and specifications required under Section 469.101.

(b) The person shall submit the plans and specifications not later than the 20th day after the date the person issues the plans and specifications. If plans and specifications are issued on more than one date, the person shall submit the plans and specifications not later than the 20th day after each date the plans and specifications are issued. In computing time under this subsection, a Saturday, Sunday, or legal holiday is not included.

(c) The owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the department. On application to a local governmental entity for a

building construction permit, the owner shall submit to the entity proof that the plans and specifications have been submitted to the department under this chapter.

(d) A public official of a political subdivision who is legally authorized to issue building construction permits may not accept an application for a building construction permit for a building or facility subject to Section 469.101 unless the official verifies that the building or facility has been registered with the department as provided by rule.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 342 (H.B. 1055), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 342 (H.B. 1055), § 2 provides: "Section 469.102(b), Government Code, as amended by this Act, applies to plans and specifications issued on or after the effective date of this Act [September 1, 2009]. Plans and specifications issued before the effective date of this Act are governed by the law in effect on the date the plans and specifications are issued, and the former law is continued in effect for that purpose."

Sec. 469.103. Modification of Approved Plans and Specifications.

Approved plans and specifications to which any substantial modification is made shall be resubmitted to the department for review and approval.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.104. Failure to Submit Plans and Specifications.

The commission shall report to the Texas Board of Architectural Examiners, the Texas Board of Professional Engineers, or another appropriate licensing authority the failure of any architect, interior designer, landscape architect, or engineer to submit or resubmit in a timely manner plans and specifications to the department as required by this subchapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.105. Inspection of Building or Facility.

(a) The owner of a building or facility described by Section 469.101 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the commission under this chapter not later than the first anniversary of the date the construction or substantial renovation or modification of the building or facility is completed.

(b) The inspection must be performed by:

(1) the department;

(2) an entity with which the commission contracts under Section 469.055; or

(3) a person who holds a certificate of registration under Subchapter E.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.106. Buildings and Facilities Used to Provide Direct Services to Persons with Mobility Impairments; State Leases.

(a) Notwithstanding any other provision of this chapter, the commission shall require complete compliance with the standards and specifications adopted by the commission under this chapter that apply specifically to a building or facility occupied by a state agency involved in extending direct services to persons with mobility impairments. Those standards and specifications also apply to a building or facility occupied by the Texas Rehabilitation Commission.

(b) The department and the Texas Building and Procurement Commission shall ensure compliance with the standards and specifications described by Subsection (a) for a building or facility described by Subsection (a) and leased for an annual amount of more than $12,000 or built by or for the state.

(c) Before a building or facility to be leased by the state for an annual amount of more than $12,000 is occupied in whole or in part by the state, a person described by Section 469.105(b) must perform an on-site inspection of the building or facility to determine whether it complies with all accessibility standards and specifications adopted under this chapter.

(d) If an inspection under Subsection (c) determines that a building or facility does not comply with all applicable standards and specifications, the leasing agency or the Texas Building and Procurement Commission, as applicable, shall cancel the lease unless the lessor brings the building or facility into compliance not later than:

(1) the 60th day after the date the person performing the inspection delivers the results of the inspection to the lessor or the lessor's agent; or

(2) a later date established by the commission if circumstances justify a later date.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.107. Review of Plans and Specifications for Structures Not Subject to Chapter.

The commission may:

(1) review plans and specifications and make inspections of a structure not otherwise subject to this chapter; and

(2) issue a certification that a structure not otherwise subject to this chapter is free of architectural barriers and in compliance with this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

SUBCHAPTER D WAIVER OR MODIFICATION OF ACCESSIBILITY STANDARDS

Sec. 469.151. Waiver or Modification Permitted.

(a) The commission may waive or modify accessibility standards adopted under this chapter if:

(1) the commission considers the application of the standards to be irrelevant to the nature, use, or function of a building or facility subject to this chapter; or

(2) the owner of the building or facility for which a request for a waiver or modification is made, or the owner's designated agent, presents proof to the commission that compliance with a specific standard is impractical.

(b) If a request is made for waiver or modification of an accessibility standard with respect to a building described by Section 469.003(a)(3) or a building or facility leased or rented for use by the state through the use of federal money, the owner of the building or facility, or the owner's designated agent, must present to the commission the proof required by Subsection (a)(2).

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.152. Waiver or Modification Prohibited.

The commission may not waive or modify a standard or specification if:

(1) the waiver or modification would significantly impair the acquisition of goods and services by persons with disabilities or substantially reduce the potential for employment of persons with disabilities;

(2) the commission knows that the waiver or modification would result in a violation of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and its subsequent amendments; or

(3) the proof presented to the commission under Section 469.151(a)(2) is not adequate.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.153. Maintenance of Certain Information.

All evidence supporting a waiver or modification determination by the commission is a matter of public record and shall be made part of the file system maintained by the department.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

SUBCHAPTER E REGISTRATION TO PERFORM REVIEWS OR INSPECTIONS

Sec. 469.201. Certificate of Registration Required.

(a) A person may not perform a review or inspection function of the commission on behalf of the owner of a building or facility unless the person holds a certificate of registration issued under this subchapter.

(b) This section does not apply to an employee of:

(1) the department; or

(2) an entity with which the commission contracts under Section 469.055.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.202. Fees Related to Certificate of Registration.

The commission may charge a fee for:

(1) an application for a certificate of registration;

(2) an examination for a certificate of registration;

(3) an educational course required for eligibility for a certificate of registration;

(4) issuance of an original certificate of registration;

(5) a continuing education course required to renew a certificate of registration; and

(6) renewal of a certificate of registration.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.203. Application and Eligibility.

(a) An applicant for a certificate of registration must file with the commission an application on a form prescribed by the executive director.

(b) To be eligible for a certificate of registration, an applicant must satisfy any requirements adopted by the commission by rule, including education and examination requirements.

(c) The executive director may recognize, prepare, or administer educational courses required for obtaining a certificate of registration.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.008, effective September 1, 2005.)

Sec. 469.204. Examination.

(a) The executive director may administer separate examinations for applicants for certificates of registration to perform review functions, inspection functions, or both review and inspection functions.
(b) [Repealed by Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.011, effective September 1, 2005.]
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.011, effective September 1, 2005.)

Sec. 469.205. Issuance of Certificate.

(a) The executive director shall issue an appropriate certificate of registration to an applicant who meets the requirements for a certificate.
(b) The executive director may issue a certificate of registration to perform review functions of the commission, inspection functions of the commission, or both review and inspection functions.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.206. Certificate Term.

The commission by rule shall specify the term of a certificate of registration.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.009, effective September 1, 2005.)

Sec. 469.207. Continuing Education [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.012, effective September 1, 2005.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003.)

Sec. 469.208. Performance of Reviews and Inspections.

(a) A certificate holder shall perform a review or inspection function of the commission in a competent and professional manner and in compliance with:

(1) standards and specifications adopted by the commission under this chapter; and

(2) rules adopted by the commission under this chapter.

(b) A certificate holder may not engage in false or misleading advertising in connection with the performance of review or inspection functions of the commission.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.005(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.010, effective September 1, 2005.)

SUBTITLE G
CORRECTIONS

CHAPTER 508
PAROLE AND MANDATORY SUPERVISION

Subchapter E. Parole and Mandatory Supervision; Release Procedures

SUBCHAPTER E
PAROLE AND MANDATORY SUPERVISION; RELEASE PROCEDURES

Sec. 508.149. Inmates Ineligible for Mandatory Supervision.

(a) An inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of:

(1) an offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure;

(2) a first degree felony or a second degree felony under Section 19.02, Penal Code;

(3) a capital felony under Section 19.03, Penal Code;

(4) a first degree felony or a second degree felony under Section 20.04, Penal Code;

(5) an offense under Section 21.11, Penal Code;

(6) a felony under Section 22.011, Penal Code;

(7) a first degree felony or a second degree felony under Section 22.02, Penal Code;

(8) a first degree felony under Section 22.021, Penal Code;

(9) a first degree felony under Section 22.04, Penal Code;

(10) a first degree felony under Section 28.02, Penal Code;

(11) a second degree felony under Section 29.02, Penal Code;

(12) a first degree felony under Section 29.03, Penal Code;

(13) a first degree felony under Section 30.02, Penal Code;

(14) a felony for which the punishment is increased under Section 481.134 or Section 481.140, Health and Safety Code;

(15) an offense under Section 43.25, Penal Code;

(16) an offense under Section 21.02, Penal Code;

(17) a first degree felony under Section 15.03, Penal Code;

(18) an offense under Section 43.05, Penal Code;

(19) an offense under Section 20A.02, Penal Code;

(20) an offense under Section 20A.03, Penal Code; or

(21) a first degree felony under Section 71.02 or 71.023, Penal Code.

(b) An inmate may not be released to mandatory supervision if a parole panel determines that:

(1) the inmate's accrued good conduct time is not an accurate reflection of the inmate's potential for rehabilitation; and

(2) the inmate's release would endanger the public.

(c) A parole panel that makes a determination under Subsection (b) shall specify in writing the reasons for the determination.

(d) A determination under Subsection (b) is not subject to administrative or judicial review, except that the parole panel making the determination shall reconsider the inmate for release to mandatory supervision at least twice during the two years after the date of the determination.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 12.01, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 10.22, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 786 (H.B. 156), § 3, effective June 14, 2001; am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), § 1.11, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 146 (S.B. 1832), § 3, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 5.02, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 122 (H.B. 3000), § 11, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 9.011, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1325 (S.B. 549), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 146 (S.B. 1832), § 4 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 7.01 and ch. 122 (H.B. 3000), § 15 provide: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1325 (S.B. 549), § 6 provides: "The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

SUBCHAPTER J
MISCELLANEOUS

Sec. 508.318. Continuing Education Program.

(a) The Texas Board of Criminal Justice and the Texas Education Agency shall adopt a memorandum of understanding that establishes the respective responsibilities of the board and the agency in implementing a continuing education program to increase the literacy of releasees.

(b) The Texas Board of Criminal Justice and the agency shall coordinate the development of the memorandum of understanding and each by rule shall adopt the memorandum.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 12.01, effective September 1, 1997.)

SUBTITLE I
HEALTH AND HUMAN SERVICES

CHAPTER 531
HEALTH AND HUMAN SERVICES COMMISSION
[EXPIRES SEPTEMBER 1, 2015]

Subchapter B. Powers and Duties [Expires September 1, 2015]

Section

SUBCHAPTER B
POWERS AND DUTIES
[EXPIRES SEPTEMBER 1, 2015]

Sec. 531.02447. [Expires September 1, 2015] Employment-First Policy.

(a) It is the policy of the state that earning a living wage through competitive employment in the general workforce is the priority and preferred outcome for working-age individuals with disabilities who receive public benefits.

(b) The commission, the Texas Education Agency, and the Texas Workforce Commission shall jointly adopt and implement an employment-first policy in accordance with the state's policy under Subsection (a). The policy must:

(1) affirm that an individual with a disability is able to meet the same employment standards as an individual who does not have a disability;

(2) ensure that all working-age individuals with disabilities, including young adults, are offered factual information regarding employment as an individual with a disability, including the relationship between an individual's earned income and the individual's public benefits;

(3) ensure that individuals with disabilities are given the opportunity to understand and explore options for education or training, including postsecondary, graduate, and postgraduate education, vocational or technical training, or other training, as pathways to employment;

(4) promote the availability and accessibility of individualized training designed to prepare an individual with a disability for the individual's preferred employment;

(5) promote partnerships with employers to overcome barriers to meeting workforce needs with the creative use of technology and innovation;

(6) ensure that the staff of public schools, vocational service programs, and community providers are trained and supported to assist in achieving the goal of competitive employment for all individuals with disabilities; and

(7) ensure that competitive employment, while being the priority and preferred outcome, is not required of an individual with a disability to secure or maintain public benefits for which the individual is otherwise eligible.

(Enacted by Acts 2013, 83rd Leg., ch. 1199 (S.B. 1226), § 1, effective June 14, 2013.)

Sec. 531.02448. [Expires September 1, 2017] Employment-First Task Force.

(a) The executive commissioner shall establish an interagency employment-first task force, or may use an existing committee or task force, to promote competitive employment of individuals with disabilities and the expectation that individuals with disabilities are able to meet the same employment standards, responsibilities, and expectations as any other working-age adult.

(b) If the executive commissioner establishes a task force for the purposes described by Subsection (a), the executive commissioner shall determine the number of members on the task force. The executive commissioner shall appoint at least the following as members, subject to Subsection (e):

(1) an individual with a disability;

(2) a family member of an individual with a disability;

(3) a representative of the commission;

(4) a representative of the Department of Assistive and Rehabilitative Services;

(5) a representative of the Department of State Health Services;

(6) a representative of the Department of Aging and Disability Services;

(7) a representative of the Department of Family and Protective Services;

(8) a representative of the Texas Workforce Commission;

(9) a representative of the Texas Education Agency;

(10) an advocate for individuals with disabilities;

(11) a representative of a provider of integrated and competitive employment services; and

(12) an employer or a representative of an employer in an industry in which individuals with disabilities might be employed.

(c) A member of a task force established under this section serves at the will of the executive commissioner.

(d) The executive commissioner shall designate a member of a task force established under this section to serve as presiding officer.

(e) At least one-third of a task force established under this section must be composed of individuals with disabilities, and no more than one-third of the task force may be composed of advocates for individuals with disabilities.

(f) A task force established under this section or an existing committee or task force used for purposes of this section shall:

(1) design an education and outreach process targeted at working-age individuals with disabilities, including young adults with disabilities, the families of those individuals, the state agencies listed in Subsection (b), and service providers, that is aimed at raising expectations of the success

of individuals with disabilities in integrated, individualized, and competitive employment;

(2) develop recommendations for policy, procedure, and rules changes that are necessary to allow the employment-first policy described under Section 531.02447(b) to be fully implemented; and

(3) not later than September 1 of each even-numbered year, prepare and submit to the office of the governor, the legislature, and the executive commissioner a report regarding the task force's findings and recommendations, including:

(A) information that reflects the potential and actual impact of the employment-first policy on the employment outcomes for individuals with disabilities; and

(B) recommendations for improvement of employment services and outcomes, including employment rates, for individuals with disabilities based on the reported impact of an employment-first policy under Paragraph (A) that may include:

(i) recommendations relating to using any savings to the state resulting from the implementation of the employment-first policy to further improve the services and outcomes; and

(ii) recommendations developed under Subdivision (2) regarding necessary policy, procedure, and rules changes.

(g) A member of a task force established under this section is not entitled to compensation. Members may be reimbursed for expenses as follows:

(1) a member described by Subsection (b)(1) or (2) is entitled to reimbursement for travel and other necessary expenses as provided in the General Appropriations Act;

(2) a member appointed as a representative of a state agency is eligible for reimbursement for travel and other necessary expenses according to the applicable agency's policies; and

(3) a member described by Subsection (b)(10), (11), or (12) is entitled to reimbursement for travel and other necessary expenses to be paid equally out of available money appropriated to the commission and to health and human services agencies.

(h) The commission and the health and human services agencies shall provide administrative support and staff to a task force established under this section.

(i) The executive commissioner, the commissioner of education, and the Texas Workforce Commission shall evaluate recommendations made by a task force or committee under this section and adopt rules as necessary that are consistent with the employment-first policy adopted under Section 531.02447.

(j) This section expires September 1, 2017.

(Enacted by Acts 2013, 83rd Leg., ch. 1199 (S.B. 1226), § 1, effective June 14, 2013.)

Sec. 531.0312. [Expires September 1, 2015] Texas Information and Referral Network.

(a) The Texas Information and Referral Network at the commission is the program responsible for the development, coordination, and implementation of a statewide information and referral network that integrates existing community-based structures with state and local agencies. The network must include information relating to transportation services provided to clients of state and local agencies.

(b) The commission shall cooperate with the Records Management Interagency Coordinating Council and the comptroller to establish a single method of categorizing information about health and human services to be used by the Records Management Interagency Coordinating Council and the Texas Information and Referral Network. The network, in cooperation with the council and the comptroller, shall ensure that:

(1) information relating to health and human services is included in each residential telephone directory published by a for-profit publisher and distributed to the public at minimal or no cost; and

(2) the single method of categorizing information about health and human services is used in a residential telephone directory described by Subdivision (1).

(c) **[2 Versions: As amended by Acts 1999, 76th Leg., ch. 50]** A health and human services agency or a public or private entity receiving state-appropriated funds to provide health and human services shall provide the Texas Information and Referral Network with information about the health and human services provided by the agency or entity for inclusion in the statewide information and referral network. The agency or entity shall provide the information in a form determined by the commissioner and shall update the information at least quarterly.

(c) **[2 Versions: As amended by Acts 1999, 76th Leg., ch. 1460]** A health and human services agency shall provide the Texas Information and Referral Network and the Records Management Interagency Coordinating Council with information about the health and human services provided by the agency for inclusion in the statewide information and referral network, residential telephone directories described by Subsection (b), and any other

materials produced under the direction of the network or the council. The agency shall provide the information in the format required by the Texas Information and Referral Network or the Records Management Interagency Coordinating Council and shall update the information at least quarterly or as required by the network or the council.

(d) The Texas Department of Housing and Community Affairs shall provide the Texas Information and Referral Network with information regarding the department's housing and community affairs programs for inclusion in the statewide information and referral network. The department shall provide the information in a form determined by the commissioner and shall update the information at least quarterly.

(e) Each local workforce development board, the Texas Head Start State Collaboration Office, and each school district shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information and referral network. The local workforce development boards, Texas Head Start State Collaboration Office, and school districts shall provide the information in a form determined by the executive commissioner. In this subsection, "child-care and education services" has the meaning assigned by Section 531.03131.

(Enacted by Acts 1997, 75th Leg., ch. 652 (H.B. 2596), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 50 (S.B. 397), § 1, effective May 10, 1999; am. Acts 1999, 76th Leg., ch. 1460 (H.B. 2641), § 3.05, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1367 (S.B. 322), § 1.31, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1260 (H.B. 2048), § 23(a), effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.60, effective September 1, 2007.)

Sec. 531.03131. [Expires September 1, 2015] Electronic Access to Child-Care and Education Services Referral Information.

(a) In this section, "child-care and education services" means:

(1) subsidized child-care services administered by the Texas Workforce Commission and local workforce development boards and funded wholly or partly by federal child-care development funds;

(2) child-care and education services provided by a Head Start or Early Head Start program provider;

(3) child-care and education services provided by a school district through a prekindergarten or after-school program; and

(4) any other government-funded child-care and education services, other than education and services provided by a school district as part of the general program of public and secondary education, designed to educate or provide care for children under the age of 13 in middle-income or low-income families.

(b) In addition to providing health and human services information, the Texas Information and Referral Network Internet site established under Section 531.0313 shall provide information to the public regarding child-care and education services provided by public or private entities throughout the state. The Internet site will serve as a single point of access through which a person may be directed on how or where to apply for all child-care and education services available in the person's community.

(c) To the extent resources are available, the Internet site must:

(1) be geographically indexed and designed to inform an individual about the child-care and education services provided in the area where the person lives;

(2) contain prescreening questions to determine a person's or family's probable eligibility for child-care and education services; and

(3) be designed in a manner that allows staff of the Texas Information and Referral Network to:

(A) provide an applicant with the telephone number, physical address, and electronic mail address of the nearest Head Start or Early Head Start office or center and local workforce development center and the appropriate school district; and

(B) send an electronic mail message to each appropriate entity described by Paragraph (A) containing the name of and contact information for each applicant and a description of the services the applicant is applying for.

(d) On receipt of an electronic mail message from the Texas Information and Referral Network under Subsection (c)(3)(B), each entity shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services and, on certifying eligibility, shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

(e) The child-care resource and referral network under Chapter 310, Labor Code, and each entity providing child-care and education services in this state, including local workforce development boards, the Texas Education Agency, school districts, Head Start and Early Head Start program providers,

municipalities, counties, and other political subdivisions of this state, shall cooperate with the Texas Information and Referral Network as necessary in the administration of this section.

(f) Not later than December 1 of each year, the commission shall file with the legislature a report regarding the use of the Internet site in the provision and delivery of child-care and education services during the reporting period. The report must include:

(1) the number of referrals made to Head Start or Early Head Start offices or centers;

(2) the number of referrals made to local workforce development centers; and

(3) the number of referrals made to each school district.

(g) The report required under Subsection (f) may be made in conjunction with any other report the commission is required to submit to the legislature. (Enacted by Acts 2005, 79th Leg., ch. 1260 (H.B. 2048), § 23(b), effective June 18, 2005; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 35, effective September 1, 2013.)

CHAPTER 535
PROVISION OF HUMAN SERVICES AND OTHER SOCIAL SERVICES THROUGH FAITH- AND COMMUNITY-BASED ORGANIZATIONS

Subchapter B. Governmental Liaisons for Faith- And Community-Based Organizations

Section

SUBCHAPTER B GOVERNMENTAL LIAISONS FOR FAITH- AND COMMUNITY-BASED ORGANIZATIONS

Sec. 535.051. Designation of Faith- and Community-Based Liaisons.

(a) The executive commissioner, in consultation with the governor, shall designate one employee from the commission and from each health and human services agency to serve as a liaison for faith- and community-based organizations.

(b) The chief administrative officer of each of the following state agencies, in consultation with the governor, shall designate one employee from the agency to serve as a liaison for faith- and community-based organizations:

(1) the Texas Department of Rural Affairs;

(2) the Texas Commission on Environmental Quality;

(3) the Texas Department of Criminal Justice;

(4) the Texas Department of Housing and Community Affairs;

(5) the Texas Juvenile Justice Department;

(6) the Texas Veterans Commission;

(7) the Texas Workforce Commission;

(8) the office of the governor;

(9) the Department of Public Safety;

(10) the Texas Department of Insurance;

(11) the Public Utility Commission of Texas;

(12) the office of the attorney general;

(13) the Department of Agriculture;

(14) the office of the comptroller;

(15) the Department of Information Resources;

(16) the Office of State-Federal Relations;

(17) the office of the secretary of state; and

(18) other state agencies as determined by the governor.

(c) The commissioner of higher education, in consultation with the presiding officer of the interagency coordinating group, shall designate one employee from an institution of higher education, as that term is defined under Section 61.003, Education Code, to serve as a liaison for faith- and community-based organizations.

(Enacted by Acts 2009, 81st Leg., ch. 259 (H.B. 492), § 1, effective May 30, 2009; am. Acts 2011, 82nd Leg., ch. 298 (H.B. 1965), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1176 (H.B. 3278), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 9.012, effective September 1, 2013.)

Sec. 535.052. General Duties of Liaisons.

(a) A faith- and community-based liaison designated under Section 535.051 shall:

(1) identify and remove unnecessary barriers to partnerships between the state agency the liaison represents and faith- and community-based organizations;

(2) provide information and training, if necessary, for employees of the state agency the liaison represents regarding equal opportunity standards for faith- and community-based organizations seeking to partner with state government;

(3) facilitate the identification of practices with demonstrated effectiveness for faith- and community-based organizations that partner with the state agency the liaison represents;

(4) work with the appropriate departments and programs of the state agency the liaison represents to conduct outreach efforts to inform and welcome faith- and community-based organizations that have not traditionally formed partnerships with the agency;

(5) coordinate all efforts with the governor's office of faith-based and community initiatives and provide information, support, and assistance to that office as requested to the extent permitted by law and as feasible; and

(6) attend conferences sponsored by federal agencies and offices and other relevant entities to become and remain informed of issues and developments regarding faith- and community-based initiatives.

(b) A faith- and community-based liaison designated under Section 535.051 may coordinate and interact with statewide organizations that represent faith- or community-based organizations as necessary to accomplish the purposes of this chapter.

(Enacted by Acts 2009, 81st Leg., ch. 259 (H.B. 492), § 1, effective May 30, 2009.)

Sec. 535.053. Interagency Coordinating Group.

(a) The interagency coordinating group for faith- and community-based initiatives is composed of each faith- and community-based liaison designated under Section 535.051 and a liaison from the State Commission on National and Community Service. The commission shall provide administrative support to the interagency coordinating group.

(b) The liaison from the State Commission on National and Community Service is the presiding officer of the interagency coordinating group. If the State Commission on National and Community Service is abolished, the liaison from the governor's office is the presiding officer of the interagency coordinating group.

(c) The interagency coordinating group shall:

(1) meet periodically at the call of the presiding officer;

(2) work across state agencies and with the State Commission on National and Community Service to facilitate the removal of unnecessary interagency barriers to partnerships between state agencies and faith- and community-based organizations; and

(3) operate in a manner that promotes effective partnerships between those agencies and organizations to serve residents of this state who need assistance.

(Enacted by Acts 2009, 81st Leg., ch. 259 (H.B. 492), § 1, effective May 30, 2009; am. Acts 2011, 82nd Leg., ch. 298 (H.B. 1965), § 2, effective June 17, 2011.)

Sec. 535.054. Report.

(a) Not later than December 1 of each year, the interagency coordinating group shall submit a report to the legislature that describes in detail the activities, goals, and progress of the interagency coordinating group.

(b) The report made under Subsection (a) must be made available to the public through posting on the office of the governor's Internet website.

(Enacted by Acts 2009, 81st Leg., ch. 259 (H.B. 492), § 1, effective May 30, 2009; am. Acts 2011, 82nd Leg., ch. 298 (H.B. 1965), § 3, effective June 17, 2011.)

Sec. 535.055. [Expires September 1, 2019] Texas Nonprofit Council.

(a) The Texas Nonprofit Council is established to help direct the interagency coordinating group in carrying out the group's duties under this section. The commission shall provide administrative support to the council.

(b) The executive commissioner, in consultation with the presiding officer of the interagency coordinating group, shall appoint as members of the council two representatives from each of the following groups and entities:

(1) statewide nonprofit organizations;

(2) local governments;

(3) faith-based groups;

(4) community-based groups;

(5) consultants to nonprofit corporations; and

(6) statewide associations of nonprofit organizations.

(c) The council, in coordination with the interagency coordinating group, shall:

(1) make recommendations for improving contracting relationships between state agencies and faith- and community-based organizations;

(2) develop best practices for cooperating and collaborating with faith- and community-based organizations;

(3) identify and address duplication of services provided by the state and faith- and community-based organizations; and

(4) identify and address gaps in state services that faith- and community-based organizations could fill.

(c-1) The council shall elect a chair or chairs and secretary from among its members and shall assist the executive commissioner in identifying individuals to fill vacant council positions that arise.

(c-2) Council members serve three-year terms. The terms expire on October 1 of every third year. A

council member shall serve a maximum of two consecutive terms.

(d) The council shall prepare a biennial report detailing the council's work, including in the report any recommendations relating to legislation necessary to address an issue identified under this section. The council shall present the report to the House Committee on Human Services or its successor, the House Committee on Public Health or its successor, and the Senate Health and Human Services Committee or its successor not later than December 1 of each even-numbered year.

(e) Chapter 2110 does not apply to the Texas Nonprofit Council.

(f) The Texas Nonprofit Council is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this section expires September 1, 2019.

(Enacted by Acts 2011, 82nd Leg., ch. 298 (H.B. 1965), § 4, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 1183 (S.B. 993), § 1, effective June 14, 2013.)

TITLE 5
OPEN GOVERNMENT; ETHICS

SUBTITLE A
OPEN GOVERNMENT

CHAPTER 551
OPEN MEETINGS

Subchapter A. General Provisions

Subchapter B. Record of Open Meeting

Subchapter C. Notice of Meetings

Subchapter D. Exceptions to Requirement That Meetings Be Open

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 551.001. Definitions.

In this chapter:

(1) "Closed meeting" means a meeting to which the public does not have access.

(2) "Deliberation" means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.

(3) "Governmental body" means:

(A) a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B) a county commissioners court in the state;

(C) a municipal governing body in the state;

(D) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E) a school district board of trustees;

(F) a county board of school trustees;

(G) a county board of education;

(H) the governing board of a special district created by law;

(I) a local workforce development board created under Section 2308.253;

(J) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state; and

(K) a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code.

(4) "Meeting" means:

(A) a deliberation between a quorum of a governmental body, or between a quorum of a

governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

(i) that is conducted by the governmental body or for which the governmental body is responsible;

(ii) at which a quorum of members of the governmental body is present;

(iii) that has been called by the governmental body; and

(iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

The term includes a session of a governmental body.

(5) "Open" means open to the public.

(6) "Quorum" means a majority of a governmental body, unless defined differently by applicable law or rule or the charter of the governmental body.

(7) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 87]** "Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.

(7) **[2 Versions: As added by Acts 2013, 83rd Leg., ch. 685]** "Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 18.23, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 647 (H.B. 156), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 633 (H.B. 371), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1004 (H.B. 936), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.012, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 165 (S.B. 1306), § 1, effective May 22, 2007; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 1, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 4 provides: "The changes in law made by this Act apply only to an open meeting held on or after the effective date of this Act [June 14, 2013]. An open meeting that is held before the effective date of this Act is governed by the law in effect on the date of the open meeting, and the former law is continued in effect for that purpose."

Sec. 551.0015. Certain Property Owners' Associations Subject to Law.

(a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

(b) The governing body of the association, a committee of the association, and members of the governing body or of a committee of the association are subject to this chapter in the same manner as the governing body of a governmental body, a committee of a governmental body, and members of the governing body or of a committee of the governmental body.
(Enacted by Acts 1999, 76th Leg., ch. 1084 (H.B. 3407), § 1, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1367 (H.B. 3674), § 1, effective September 1, 2007.)

Sec. 551.002. Open Meetings Requirement.

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.003. Legislature.

In this chapter, the legislature is exercising its powers to adopt rules to prohibit secret meetings of the legislature, committees of the legislature, and other bodies associated with the legislature, except as specifically permitted in the constitution.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0035. Attendance by Governmental Body at Legislative Committee or Agency Meeting.

(a) This section applies only to the attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature. This section does not apply to attendance at the meeting by members of the legislative committee or agency holding the meeting.

(b) The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency.
(Enacted by Acts 2001, 77th Leg., ch. 447 (S.B. 170), § 1, effective June 4, 2001.)

Sec. 551.004. Open Meetings Required by Charter.

This chapter does not authorize a governmental body to close a meeting that a charter of the governmental body:

(1) prohibits from being closed; or

(2) requires to be open.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.005. Open Meetings Training.

(a) Each elected or appointed public official who is a member of a governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under this chapter not later than the 90th day after the date the member:

(1) takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the governmental body; or

(2) otherwise assumes responsibilities as a member of the governmental body, if the member is not required to take an oath of office to assume the person's duties as a member of the governmental body.

(b) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open meetings;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding quorums, notice, and recordkeeping under this chapter;

(4) procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(c) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training.

(d) Completing the required training as a member of the governmental body satisfies the requirements of this section with regard to the member's service on a committee or subcommittee of the

governmental body and the member's ex officio service on any other governmental body.

(e) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open meetings required by law for the members of a governmental body. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(f) The failure of one or more members of a governmental body to complete the training required by this section does not affect the validity of an action taken by the governmental body.

(g) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 105 (S.B. 286), § 1, effective January 1, 2006.)

Sec. 551.006. Written Electronic Communications Accessible to Public.

(a) A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of this chapter if:

(1) the communication is in writing;

(2) the writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and

(3) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

(b) A governmental body may have no more than one online message board or similar Internet application to be used for the purposes described in Subsection (a). The online message board or similar Internet application must be owned or controlled by the governmental body, prominently displayed on the governmental body's primary Internet web page, and no more than one click away from the governmental body's primary Internet web page.

(c) The online message board or similar Internet application described in Subsection (a) may only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. In the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

(d) If a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the governmental body shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Chapter 552.

(e) The governmental body may not vote or take any action that is required to be taken at a meeting under this chapter of the governmental body by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the governmental body.

(Enacted by Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 3, effective June 14, 2013; Enacted Acts 2013, 83rd Leg., ch. 1201 (S.B. 1297), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 4 provides: "The changes in law made by this Act apply only to an open meeting held on or after the effective date of this Act [June 14, 2013]. An open meeting that is held before the effective date of this Act is governed by the law in effect on the date of the open meeting, and the former law is continued in effect for that purpose."

SUBCHAPTER B
RECORD OF OPEN MEETING

Sec. 551.021. Minutes or Recording of Open Meeting Required.

(a) A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body.

(b) The minutes must:

(1) state the subject of each deliberation; and

(2) indicate each vote, order, decision, or other action taken.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 2, 3, effective May 18, 2013.)

Sec. 551.022. Minutes and Recordings of Open Meeting: Public Record.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013,

83rd Leg., ch. 87 (S.B. 471), § 4, effective May 18, 2013.)

Sec. 551.023. Recording of Meeting by Person in Attendance.

(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

(1) the location of recording equipment; and

(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 5, effective May 18, 2013.)

SUBCHAPTER C
NOTICE OF MEETINGS

Sec. 551.041. Notice of Meeting Required.

A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0411. Meeting Notice Requirements in Certain Circumstances.

(a) Section 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent this chapter. If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.

(b) A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Section 551.045 if the action is taken in good faith and not to circumvent this chapter. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives written notice of the meeting as required by this subchapter.

(c) In this section, "catastrophe" means a condition or occurrence that interferes physically with the ability of a governmental body to conduct a meeting, including:

(1) fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

(2) power failure, transportation failure, or interruption of communication facilities;

(3) epidemic; or

(4) riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

(Enacted by Acts 2005, 79th Leg., ch. 325 (S.B. 690), § 1, effective June 17, 2005.)

Sec. 551.0415. Governing Body of Municipality or County: Reports About Items of Community Interest Regarding Which No Action Will Be Taken.

(a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

(1) expressions of thanks, congratulations, or condolence;

(2) information regarding holiday schedules;

(3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;

(4) a reminder about an upcoming event organized or sponsored by the governing body;

(5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and

(6) announcements involving an imminent threat to the public health and safety of people in

the political subdivision that has arisen after the posting of the agenda.

(Enacted by Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1007 (H.B. 2313), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1341 (S.B. 1233), § 14, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 9.013, effective September 1, 2013.)

Sec. 551.042. Inquiry Made at Meeting.

(a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

(1) a statement of specific factual information given in response to the inquiry; or

(2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.043. Time and Accessibility of Notice; General Rule.

(a) The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided by Sections 551.044—551.046.

(b) If this chapter specifically requires or allows a governmental body to post notice of a meeting on the Internet:

(1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period;

(2) the governmental body must still comply with any duty imposed by this chapter to physically post the notice at a particular location; and

(3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted at the location prescribed by this chapter must be readily accessible to the general public during normal business hours.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 624 (H.B. 2381), § 1, effective September 1, 2005.)

Sec. 551.044. Exception to General Rule: Governmental Body with Statewide Jurisdiction.

(a) The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view notices of meetings posted by the secretary of state.

(b) Subsection (a) does not apply to:

(1) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(2) the governing board of an institution of higher education.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 622 (S.B. 916), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 6.006, effective September 1, 2005.)

Sec. 551.045. Exception to General Rule: Notice of Emergency Meeting or Emergency Addition to Agenda.

(a) In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter is sufficient if it is posted for at least two hours before the meeting is convened.

(b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

(1) an imminent threat to public health and safety; or

(2) a reasonably unforeseeable situation.

(c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.

(d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

(e) For purposes of Subsection (b)(2), the sudden relocation of a large number of residents from the area of a declared disaster to a governmental body's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency

meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Section 551.047 not later than one hour before the meeting.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 3.06, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 1325 (S.B. 1499), § 1, effective June 15, 2007.)

Sec. 551.046. Exception to General Rule: Committee of Legislature.

The notice of a legislative committee meeting shall be as provided by the rules of the house of representatives or of the senate.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.047. Special Notice to News Media of Emergency Meeting or Emergency Addition to Agenda.

(a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.

(b) The presiding officer or member is required to notify only those members of the news media that have previously:

(1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and

(2) agreed to reimburse the governmental body for the cost of providing the special notice.

(c) The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 380 (S.B. 592), § 1, effective June 15, 2007.)

Sec. 551.048. State Governmental Body: Notice to Secretary of State; Place of Posting Notice.

(a) A state governmental body shall provide notice of each meeting to the secretary of state.

(b) The secretary of state shall post the notice on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 622 (S.B. 916), § 2, effective September 1, 1999.)

Sec. 551.049. County Governmental Body: Place of Posting Notice.

A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.050. Municipal Governmental Body: Place of Posting Notice.

(a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A municipal governmental body shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the city hall.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1007 (H.B. 2313), § 2, effective June 17, 2011.)

Sec. 551.051. School District: Place of Posting Notice.

A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.052. School District: Special Notice to News Media.

(a) A school district shall provide special notice of each meeting to any news media that has:

(1) requested special notice; and

(2) agreed to reimburse the district for the cost of providing the special notice.

(b) The notice shall be by telephone, facsimile transmission, or electronic mail.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 380 (S.B. 592), § 2, effective June 15, 2007.)

Sec. 551.053. District or Political Subdivision Extending into Four or More

Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice.

(a) The governing body of a water district or other district or political subdivision that extends into four or more counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;

(2) provide notice of each meeting to the secretary of state; and

(3) provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located.

(b) The secretary of state shall post the notice provided under Subsection (a)(2) on the Internet. The secretary of state shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the secretary of state that members of the public may use to view the notice.

(c) A county clerk shall post the notice provided under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 622 (S.B. 916), § 3, effective September 1, 1999.)

Sec. 551.054. District or Political Subdivision Extending into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice.

(a) The governing body of a water district or other district or political subdivision that extends into fewer than four counties shall:

(1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and

(2) provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located.

(b) A county clerk shall post the notice provided under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.055. Institution of Higher Education.

In addition to providing any other notice required by this subchapter, the governing board of a single institution of higher education:

(1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;

(2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and

(3) may post notice of a meeting at another place convenient to the public.

(Enacted by Acts 1995, 74th Leg., ch. 209 (H.B. 1664), § 1, effective May 23, 1995.)

Sec. 551.056. Additional Posting Requirements for Certain Municipalities, Counties, School Districts, Junior College Districts, and Development Corporations.

(a) This section applies only to a governmental body or economic development corporation that maintains an Internet website or for which an Internet website is maintained. This section does not apply to a governmental body described by Section 551.001(3)(D).

(b) In addition to the other place at which notice is required to be posted by this subchapter, the following governmental bodies and economic development corporations must also concurrently post notice of a meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality;

(2) a county;

(3) a school district;

(4) the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Chapter 130, Education Code;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code); and

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code.

(c) The following governmental bodies and economic development corporations must also concurrently post the agenda for the meeting on the Internet website of the governmental body or economic development corporation:

(1) a municipality with a population of 48,000 or more;

(2) a county with a population of 65,000 or more;

(3) a school district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more;

(4) the governing body of a junior college district, including a district that has changed its name in accordance with Chapter 130, Education Code, that contains all or part of the area within

the corporate boundaries of a municipality with a population of 48,000 or more;

(5) a development corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) that was created by or for:

(A) a municipality with a population of 48,000 or more; or

(B) a county or district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more; and

(6) a regional mobility authority included within the meaning of an "authority" as defined by Section 370.003, Transportation Code.

(d) The validity of a posted notice of a meeting or an agenda by a governmental body or economic development corporation subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body or economic development corporation.

(Enacted by Acts 2005, 79th Leg., ch. 340 (S.B. 1133), § 1, effective January 1, 2006; am. Acts 2007, 80th Leg., ch. 814 (S.B. 1548), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 885 (H.B. 2278), § 3.10, effective April 1, 2009.)

SUBCHAPTER D
EXCEPTIONS TO REQUIREMENT THAT MEETINGS BE OPEN

Sec. 551.071. Consultation with Attorney; Closed Meeting.

A governmental body may not conduct a private consultation with its attorney except:

(1) when the governmental body seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.072. Deliberation Regarding Real Property; Closed Meeting.

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0725. Commissioners Courts: Deliberation Regarding Contract Being Negotiated; Closed Meeting.

(a) The commissioners court of a county may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commissioners court votes unanimously that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person; and

(2) the attorney advising the commissioners court issues a written determination that deliberation in an open meeting would have a detrimental effect on the position of the commissioners court in negotiations with a third person.

(b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a recording of the proceedings of a closed meeting to deliberate the information.

(Enacted by Acts 2003, 78th Leg., ch. 1287 (H.B. 2004), § 1, effective June 21, 2003; am. Acts 2011, 82nd Leg., ch. 758 (H.B. 1500), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1341 (S.B. 1233), § 15, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 6, effective May 18, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 758 (H.B. 1500), § 2 provides: "The change in law made by this Act applies only to a meeting held on or after the effective date of this Act [June 17, 2011]. A meeting held before the effective date of this Act is governed by the law in effect on the date the meeting is held, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1341 (S.B. 1233), § 30(g) provides: "Subsection (a), Section 551.0725, Government Code, as amended by this Act, applies only to a meeting held on or after the effective date of this Act [June 17, 2011]. A meeting held before the effective date of this Act is governed by the law in effect on the date the meeting is held, and the former law is continued in effect for that purpose."

Sec. 551.0726. Texas Facilities Commission: Deliberation Regarding Contract Being Negotiated; Closed Meeting.

(a) The Texas Facilities Commission may conduct a closed meeting to deliberate business and financial issues relating to a contract being negotiated if, before conducting the closed meeting:

(1) the commission votes unanimously that deliberation in an open meeting would have a detri-

mental effect on the position of the state in negotiations with a third person; and

(2) the attorney advising the commission issues a written determination finding that deliberation in an open meeting would have a detrimental effect on the position of the state in negotiations with a third person and setting forth that finding therein.

(b) Notwithstanding Section 551.103(a), the commission must make a recording of the proceedings of a closed meeting held under this section.

(Enacted by Acts 2005, 79th Leg., ch. 535 (H.B. 976), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 3.05, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 11.011, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 7, effective May 18, 2013.)

Sec. 551.073. Deliberation Regarding Prospective Gift; Closed Meeting.

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.074. Personnel Matters; Closed Meeting.

(a) This chapter does not require a governmental body to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or

(2) to hear a complaint or charge against an officer or employee.

(b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0745. Personnel Matters Affecting County Advisory Body; Closed Meeting.

(a) This chapter does not require the commissioners court of a county to conduct an open meeting:

(1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of an advisory body; or

(2) to hear a complaint or charge against a member of an advisory body.

(b) Subsection (a) does not apply if the individual who is the subject of the deliberation or hearing requests a public hearing.

(Enacted by Acts 1997, 75th Leg., ch. 659 (H.B. 3448), § 1, effective September 1, 1997.)

Sec. 551.075. Conference Relating to Investments and Potential Investments Attended by Board of Trustees of Texas Growth Fund; Closed Meeting.

(a) This chapter does not require the board of trustees of the Texas growth fund to confer with one or more employees of the Texas growth fund or with a third party in an open meeting if the only purpose of the conference is to:

(1) receive information from the employees of the Texas growth fund or the third party relating to an investment or a potential investment by the Texas growth fund in:

(A) a private business entity, if disclosure of the information would give advantage to a competitor; or

(B) a business entity whose securities are publicly traded, if the investment or potential investment is not required to be registered under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.), and its subsequent amendments, and if disclosure of the information would give advantage to a competitor; or

(2) question the employees of the Texas growth fund or the third party regarding an investment or potential investment described by Subdivision (1), if disclosure of the information contained in the questions or answers would give advantage to a competitor.

(b) During a conference under Subsection (a), members of the board of trustees of the Texas growth fund may not deliberate public business or agency policy that affects public business.

(c) In this section, "Texas growth fund" means the fund created by Section 70, Article XVI, Texas Constitution.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 647 (H.B. 156), § 2, effective August 30, 1999.)

Sec. 551.076. Deliberation Regarding Security Devices or Security Audits; Closed Meeting.

This chapter does not require a governmental body to conduct an open meeting to deliberate:

(1) the deployment, or specific occasions for implementation, of security personnel or devices; or

(2) a security audit.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 3.07, effective September 1, 2007.)

Sec. 551.077. Agency Financed by Federal Government.

This chapter does not require an agency financed entirely by federal money to conduct an open meeting.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.078. Medical Board or Medical Committee.

This chapter does not require a medical board or medical committee to conduct an open meeting to deliberate the medical or psychiatric records of an individual applicant for a disability benefit from a public retirement system.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0785. Deliberations Involving Medical or Psychiatric Records of Individuals.

This chapter does not require a benefits appeals committee for a public self-funded health plan or a governmental body that administers a public insurance, health, or retirement plan to conduct an open meeting to deliberate:

(1) the medical records or psychiatric records of an individual applicant for a benefit from the plan; or

(2) a matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

(Enacted by Acts 2003, 78th Leg., ch. 158 (S.B. 984), § 1, effective May 28, 2003.)

Sec. 551.079. Texas Department of Insurance.

(a) The requirements of this chapter do not apply to a meeting of the commissioner of insurance or the commissioner's designee with the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code, in the discharge of the commissioner's duties and responsibilities to regulate and maintain the solvency of a person regulated by the Texas Department of Insurance.

(b) The commissioner of insurance may deliberate and determine the appropriate action to be taken concerning the solvency of a person regulated by the Texas Department of Insurance in a closed meeting with persons in one or more of the following categories:

(1) staff of the Texas Department of Insurance;

(2) a regulated person;

(3) representatives of a regulated person; or

(4) members of the board of directors of a guaranty association established under Chapter 2602, Insurance Code, or Article 21.28-C or 21.28-D, Insurance Code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 628 (S.B. 1793), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 11.120, effective September 1, 2005.)

Sec. 551.080. Board of Pardons and Paroles.

This chapter does not require the Board of Pardons and Paroles to conduct an open meeting to interview or counsel an inmate of the Texas Department of Criminal Justice.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.071, effective September 1, 2009.)

Sec. 551.081. Credit Union Commission.

This chapter does not require the Credit Union Commission to conduct an open meeting to deliberate a matter made confidential by law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0811. The Finance Commission of Texas.

This chapter does not require The Finance Commission of Texas to conduct an open meeting to deliberate a matter made confidential by law.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.01(a), effective September 1, 1995.)

Sec. 551.0812. State Banking Board [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 11.012, effective September 1, 2009.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.01(a), effective September 1, 1995.)

Sec. 551.082. School Children; School District Employees; Disciplinary Matter or Complaint.

(a) This chapter does not require a school board to conduct an open meeting to deliberate in a case:

(1) involving discipline of a public school child; or

(2) in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.

(b) Subsection (a) does not apply if an open hearing is requested in writing by a parent or guardian of the child or by the employee against whom the complaint or charge is brought.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.0821. School Board: Personally Identifiable Information About Public School Student.

(a) This chapter does not require a school board to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

(b) Directory information about a public school student is considered to be personally identifiable information about the student for purposes of Subsection (a) only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent. In this subsection, "directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

(c) Subsection (a) does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

(Enacted by Acts 2003, 78th Leg., ch. 190 (H.B. 1226), § 1, effective June 2, 2003.)

Sec. 551.083. Certain School Boards; Closed Meeting Regarding Consultation with Representative of Employee Group.

This chapter does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code, to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.084. Investigation; Exclusion of Witness from Hearing.

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.085. Governing Board of Certain Providers of Health Care Services.

(a) This chapter does not require the governing board of a municipal hospital, municipal hospital authority, county hospital, county hospital authority, hospital district created under general or special law, or nonprofit health maintenance organization created under Section 534.101, Health and Safety Code, to conduct an open meeting to deliberate:

(1) pricing or financial planning information relating to a bid or negotiation for the arrangement or provision of services or product lines to another person if disclosure of the information would give advantage to competitors of the hospital, hospital district, or nonprofit health maintenance organization; or

(2) information relating to a proposed new service or product line of the hospital, hospital district, or nonprofit health maintenance organization before publicly announcing the service or product line.

(b) The governing board of a health maintenance organization created under Section 281.0515, Health and Safety Code, that is subject to this chapter is not required to conduct an open meeting to deliberate information described by Subsection (a).

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.02(a), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 778 (H.B. 2328), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1229 (S.B. 753), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 7 (S.B. 121), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 342 (H.B. 2978), § 1, effective September 1, 2011.)

Sec. 551.086. Certain Public Power Utilities: Competitive Matters.

(a) Notwithstanding anything in this chapter to the contrary, the rules provided by this section apply to competitive matters of a public power utility.

(b) In this section:

(1) "Public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(2) "Public power utility governing body" means the board of trustees or other applicable governing body, including a city council, of a public power utility.

(3) [Repealed by Acts 2011, 82nd Leg., ch. 925 (S.B. 1613), § 3, effective June 17, 2011.]

(c) This chapter does not require a public power utility governing body to conduct an open meeting to deliberate, vote, or take final action on any competitive matter, as that term is defined by Section 552.133. This section does not limit the right of a public power utility governing body to hold a closed session under any other exception provided for in this chapter.

(d) For purposes of Section 551.041, the notice of the subject matter of an item that may be considered as a competitive matter under this section is required to contain no more than a general representation of the subject matter to be considered, such that the competitive activity of the public power utility with respect to the issue in question is not compromised or disclosed.

(e) With respect to municipally owned utilities subject to this section, this section shall apply whether or not the municipally owned utility has adopted customer choice or serves in a multiply certificated service area under the Utilities Code.

(f) Nothing in this section is intended to preclude the application of the enforcement and remedies provisions of Subchapter G.

(Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 925 (S.B. 1613), §§ 1, 3, effective June 17, 2011.)

Sec. 551.087. Deliberation Regarding Economic Development Negotiations; Closed Meeting.

This chapter does not require a governmental body to conduct an open meeting:

(1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or

(2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 32, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(49), effective September 1, 2001 (renumbered from Sec. 551.086).)

Sec. 551.088. Deliberation Regarding Test Item.

This chapter does not require a governmental body to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity.

(Enacted by Acts 1999, 76th Leg., ch. 312 (H.B. 595), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(50), effective September 1, 2001 (renumbered from Sec. 551.086).)

Sec. 551.089. Department of Information Resources.

This chapter does not require the governing board of the Department of Information Resources to conduct an open meeting to deliberate:

(1) security assessments or deployments relating to information resources technology;

(2) network security information as described by Section 2059.055(b); or

(3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

(Enacted by Acts 2009, 81st Leg., ch. 183 (H.B. 1830), § 3, effective September 1, 2009.)

Sec. 551.090. Enforcement Committee Appointed by Texas State Board of Public Accountancy.

This chapter does not require an enforcement committee appointed by the Texas State Board of Public Accountancy to conduct an open meeting to investigate and deliberate a disciplinary action under Subchapter K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of the Texas State Board of Public Accountancy.

(Enacted by Acts 2013, 83rd Leg., ch. 36 (S.B. 228), § 3, effective September 1, 2013.)

SUBCHAPTER E
PROCEDURES RELATING TO CLOSED MEETING

Sec. 551.101. Requirement to First Convene in Open Meeting.

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

(1) announces that a closed meeting will be held; and

(2) identifies the section or sections of this chapter under which the closed meeting is held.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.102. Requirement to Vote or Take Final Action in Open Meeting.

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.103. Certified Agenda or Recording Required.

(a) A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.

(c) The certified agenda must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(d) A recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 8, 9, effective May 18, 2013.)

Sec. 551.104. Certified Agenda or Recording; Preservation; Disclosure.

(a) A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending.

(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or recording;

(2) may admit all or part of the certified agenda or recording as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording of any part of a meeting that was required to be open under this chapter.

(c) The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 10, effective May 18, 2013.)

SUBCHAPTER F
MEETINGS USING TELEPHONE, VIDEOCONFERENCE, OR INTERNET

Sec. 551.121. Governing Board of Institution of Higher Education; Board for Lease of University Lands; Texas Higher Education Coordinating Board: Special Meeting for Immediate Action.

(a) In this section, "governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter does not prohibit the governing board of an institution of higher education, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board from holding an open or closed meeting by telephone conference call.

(c) A meeting held by telephone conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing board, the Board for Lease of University Lands, or the Texas Higher Education Coordinating Board, as applicable, is difficult or impossible.

(d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(e) The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office. For a meeting of the Board for Lease of University Lands, the notice must specify as the

location of the meeting a suitable conference or meeting room at The University of Texas System office. For a meeting of the Texas Higher Education Coordinating Board, the notice must specify as the location of the meeting a suitable conference or meeting room at the offices of the Texas Higher Education Coordinating Board or at an institution of higher education.

(f) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 1266 (S.B. 1652), §§ 4.05, 4.06, effective June 21, 2003; am. Acts 2007, 80th Leg., ch. 538 (S.B. 1046), § 3, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 778 (H.B. 3827), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 11.014, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 11, effective May 18, 2013.)

Sec. 551.122. Governing Board of Junior College District: Quorum Present at One Location.

(a) This chapter does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present and shall be recorded. The recording shall be made available to the public.

(e) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks.

(f) The authority provided by this section is in addition to the authority provided by Section 551.121.

(g) A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Section 130.0845, Education Code.

(Enacted by Acts 2007, 80th Leg., ch. 778 (H.B. 3827), § 1, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 12, effective May 18, 2013.)

Sec. 551.123. Texas Board of Criminal Justice.

(a) The Texas Board of Criminal Justice may hold an open or closed emergency meeting by telephone conference call.

(b) The portion of the telephone conference call meeting that is open shall be recorded. The recording shall be made available to be heard by the public at one or more places designated by the board. (Government Code, Sec. 492.006(c).)

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.124. Board of Pardons and Paroles.

At the call of the presiding officer of the Board of Pardons and Paroles, the board may hold a hearing on clemency matters by telephone conference call.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 12.16, effective September 1, 1997.)

Sec. 551.125. Other Governmental Body.

(a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.

(b) A meeting held by telephone conference call may be held only if:

(1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

(f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

(Enacted by Acts 1995, 74th Leg., ch. 1046 (H.B. 2508), § 1, effective August 28, 1995; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 13, effective May 18, 2013.)

Sec. 551.126. Higher Education Coordinating Board.

(a) In this section, "board" means the Texas Higher Education Coordinating Board.

(b) The board may hold an open meeting by telephone conference call or video conference call in order to consider a higher education impact statement if the preparation of a higher education impact statement by the board is to be provided under the rules of either the house of representatives or the senate.

(c) A meeting held by telephone conference call must comply with the procedures described in Section 551.125.

(d) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

(Enacted by Acts 1997, 75th Leg., ch. 944 (S.B. 1578), § 1, effective June 18, 1997.)

Sec. 551.127. Videoconference Call.

(a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.

(a-1) A member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section.

(a-2) A member of a governmental body who participates in a meeting as provided by Subsection (a-1) shall be counted as present at the meeting for all purposes.

(b) A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

(c) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 159]** A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

(c) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 685]** A meeting of a governmental body may be held by videoconference call only if:

(1) the governmental body makes available to the public at least one suitable physical space located in or within a reasonable distance of the geographic jurisdiction, if any, of the governmental body that is equipped with videoconference equipment that provides an audio and video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting;

(2) the member of the governmental body presiding over the meeting is present at that physical space; and

(3) any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call.

(d) A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.

(e) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 159]** The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

(e) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 685]** The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location of the physical space described by Subsection (c)(1).

(f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Subsection (e). If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

(g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

(h) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 159]** The location specified under Subsection (e), and each remote location from which a member of the governmental body participates, shall have two-way communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

(h) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 685]** The physical location specified under Subsection (e) shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Subsection (e) and at any other location of the meeting that is open to the public.

(i) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

(j) The audio and video signals perceptible by members of the public at each location of the meeting described by Subsection (h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

(k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

(Enacted by Acts 1997, 75th Leg., ch. 1038 (S.B. 839), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(50), effective September 1, 1999 (renumbered from Sec. 551.126); am. Acts 2001, 77th Leg., ch. 630 (H.B. 35), § 1, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 159 (S.B. 984), § 1, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 685 (H.B. 2414), § 4 provides: "The changes in law made by this Act apply only to an open meeting held on or after the effective date of this Act [June 14, 2013]. An open meeting that is held before the effective date of this Act is governed by the law in effect on the date of the open meeting, and the former law is continued in effect for that purpose."

Sec. 551.128. Internet Broadcast of Open Meeting.

(a) In this section, "Internet" means the largest nonproprietary cooperative public computer network, popularly known as the Internet.

(b) Subject to the requirements of this section, a governmental body may broadcast an open meeting over the Internet.

(c) A governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the governmental body is required to post under Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Subchapter C.

(Enacted by Acts 1999, 76th Leg., ch. 100 (S.B. 1252), § 1, effective September 1, 1999.)

Sec. 551.1281. Governing Board of General Academic Teaching Institution or University System: Internet Posting of Meeting Materials and Broadcast of Open Meeting.

(a) In this section, "general academic teaching institution" and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) The governing board of a general academic teaching institution or of a university system that includes one or more component general academic teaching institutions, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the institution

or university system, as applicable, any written agenda and related supplemental written materials provided to the governing board members in advance of the meeting by the institution or system for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the institution's or university system's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the institution or university system certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a general academic teaching institution or of a university system is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

(Enacted by Acts 2013, 83rd Leg., ch. 842 (H.B. 31), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 842 (H.B. 31), § 2 provides: "The change in law made by this Act applies only to a meeting of the governing board of a general academic teaching institution or of a state university system for which notice is given under Chapter 551, Government Code, on or after January 1, 2014."

Sec. 551.1282. Governing Board of Junior College District: Internet Posting of Meeting Materials and Broadcast of Open Meeting.

(a) This section applies only to the governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year.

(b) A governing board to which this section applies, for any regularly scheduled meeting of the governing board for which notice is required under this chapter, shall:

(1) post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting;

(2) broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Section 551.128; and

(3) record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

(c) Subsection (b)(1) does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Chapter 552.

(d) The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

(Enacted by Acts 2013, 83rd Leg., ch. 690 (H.B. 2668), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 690 (H.B. 2668), § 2 provides: "The change in law made by this Act applies only to a meeting of the governing board of a junior college district for which notice is given under Chapter 551, Government Code, on or after January 1, 2014."

Sec. 551.129. Consultations Between Governmental Body and Its Attorney.

(a) A governmental body may use a telephone conference call, video conference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body.

(b) Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body under Subsection (a) must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

(c) Subsection (a) does not:

(1) authorize the members of a governmental body to conduct a meeting of the governmental body by telephone conference call, video conference call, or communications over the Internet; or

(2) create an exception to the application of this subchapter.

(d) Subsection (a) does not apply to a consultation with an attorney who is an employee of the governmental body.

(e) For purposes of Subsection (d), an attorney who receives compensation for legal services performed, from which employment taxes are deducted by the governmental body, is an employee of the governmental body.

(f) Subsection (d) does not apply to:

(1) the governing board of an institution of higher education as defined by Section 61.003, Education Code; or

(2) the Texas Higher Education Coordinating Board.

(Enacted by Acts 2001, 77th Leg., ch. 50 (S.B. 695), § 1, effective May 7, 2001; am. Acts 2007, 80th Leg., ch. 538 (S.B. 1046), § 4, effective September 1, 2007.)

Sec. 551.130. Board of Trustees of Teacher Retirement System of Texas: Quorum Present at One Location.

(a) In this section, "board" means the board of trustees of the Teacher Retirement System of Texas.

(b) This chapter does not prohibit the board or a board committee from holding an open or closed meeting by telephone conference call.

(c) The board or a board committee may hold a meeting by telephone conference call only if a quorum of the applicable board or board committee is physically present at one location of the meeting.

(d) A telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must also specify:

(1) the location of the meeting where a quorum of the board or board committee, as applicable, will be physically present; and

(2) the intent to have a quorum present at that location.

(e) The location where a quorum is physically present must be open to the public during the open portions of a telephone conference call meeting. The open portions of the meeting must be audible to the public at the location where the quorum is present and be recorded at that location. The recording shall be made available to the public.

(f) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference call must be clearly stated before the party speaks.

(g) The authority provided by this section is in addition to the authority provided by Section 551.125.

(h) A member of the board who participates in a board or board committee meeting by telephone conference call but is not physically present at the location of the meeting is not considered to be absent from the meeting for any purpose. The vote of a member of the board who participates in a board or board committee meeting by telephone conference call is counted for the purpose of determining the number of votes cast on a motion or other proposition before the board or board committee.

(i) A member of the board may participate remotely by telephone conference call instead of by being physically present at the location of a board meeting for not more than one board meeting per calendar year. A board member who participates remotely in any portion of a board meeting by telephone conference call is considered to have participated in the entire board meeting by telephone conference call. For purposes of the limit provided by this subsection, remote participation by telephone conference call in a meeting of a board committee does not count as remote participation by telephone conference call in a meeting of the board, even if:

(1) a quorum of the full board attends the board committee meeting; or

(2) notice of the board committee meeting is also posted as notice of a board meeting.

(j) A person who is not a member of the board may speak at the meeting from a remote location by telephone conference call.

(Enacted by Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 3, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), § 14, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 1, effective June 14, 2013.)

Sec. 551.131. Water Districts.

(a) In this section, "water district" means a river authority, groundwater conservation district, water control and improvement district, or other district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) This section applies only to a water district whose territory includes land in three or more counties.

(c) A meeting held by telephone conference call or video conference call authorized by this section may be held only if:

(1) the meeting is a special called meeting and immediate action is required; and

(2) the convening at one location of a quorum of the governing body of the applicable water district is difficult or impossible.

(d) A meeting held by telephone conference call must otherwise comply with the procedures under Sections 551.125(c), (d), (e), and (f).

(e) A meeting held by video conference call is subject to the notice requirements applicable to other meetings. In addition, a meeting held by video conference call shall:

(1) be visible and audible to the public at the location specified in the notice of the meeting as the location of the meeting;

(2) be recorded by audio and video; and

(3) have two-way audio and video communications with each participant in the meeting during the entire meeting.

(Enacted by Acts 2013, 83rd Leg., ch. 20 (S.B. 293), § 1, effective May 10, 2013.)

SUBCHAPTER G
ENFORCEMENT AND REMEDIES; CRIMINAL VIOLATIONS

Sec. 551.141. Action Voidable.

An action taken by a governmental body in violation of this chapter is voidable.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.142. Mandamus; Injunction.

(a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.

(b) The court may assess costs of litigation and reasonable attorney fees incurred by a plaintiff or defendant who substantially prevails in an action under Subsection (a). In exercising its discretion, the court shall consider whether the action was brought in good faith and whether the conduct of the governmental body had a reasonable basis in law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.143. Conspiracy to Circumvent Chapter; Offense; Penalty.

(a) A member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 551.144. Closed Meeting; Offense; Penalty.

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

(1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

(2) closes or aids in closing the meeting to the public, if it is a regular meeting; or

(3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than $100 or more than $500;

(2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

(c) It is an affirmative defense to prosecution under Subsection (a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.

(Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 647 (H.B. 156), § 3, effective August 30, 1999.)

Sec. 551.145. Closed Meeting Without Certified Agenda or Recording; Offense; Penalty.

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made.

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

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 15, 16, effective May 18, 2013.)

Sec. 551.146. Disclosure of Certified Agenda or Recording of Closed Meeting; Offense; Penalty; Civil Liability.

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or recording.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 87 (S.B. 471), §§ 17, 18, effective May 18, 2013.)

CHAPTER 552
PUBLIC INFORMATION

Subchapter A. General Provisions

Subchapter B. Right of Access to Public Information

Subchapter C. Information Excepted from Required Disclosure

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 552.001. Policy; Construction.

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

(b) This chapter shall be liberally construed in favor of granting a request for information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.002. Definition of Public Information; Media Containing Public Information.

(a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

(a-1) Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental

body, and pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

(b) The media on which public information is recorded include:

(1) paper;

(2) film;

(3) a magnetic, optical, solid state, or other device that can store an electronic signal;

(4) tape;

(5) Mylar; and

(6) any physical material on which information may be recorded, including linen, silk, and vellum.

(c) The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718),§ 2, effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 1204 (S.B. 1368), § 1, effective September 1, 2013.)

Sec. 552.003. Definitions.

In this chapter:

(1) "Governmental body":

(A) means:

(i) a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;

(ii) a county commissioners court in the state;

(iii) a municipal governing body in the state;

(iv) a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(v) a school district board of trustees;

(vi) a county board of school trustees;

(vii) a county board of education;

(viii) the governing board of a special district;

(ix) the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(x) a local workforce development board created under Section 2308.253;

(xi) a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state; and

(xii) the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds; and

(B) does not include the judiciary.

(2) "Manipulation" means the process of modifying, reordering, or decoding of information with human intervention.

(2-a) "Official business" means any matter over which a governmental body has any authority, administrative duties, or advisory duties.

(3) "Processing" means the execution of a sequence of coded instructions by a computer producing a result.

(4) "Programming" means the process of producing a sequence of coded instructions that can be executed by a computer.

(5) "Public funds" means funds of the state or of a governmental subdivision of the state.

(6) "Requestor" means a person who submits a request to a governmental body for inspection or copies of public information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 18.24, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 633 (H.B. 371), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.014, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 1204 (S.B. 1368), § 2, effective September 1, 2013.)

Sec. 552.0035. Access to Information of Judiciary.

(a) Access to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules.

(b) This section does not address whether information is considered to be information collected, assembled, or maintained by or for the judiciary.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 1, effective September 1, 1999.)

Sec. 552.0036. Certain Property Owners' Associations Subject to Law.

A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

(B) is a corporation that:

(i) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;

(ii) does not require membership in the corporation by the owners of the property within the defined area; and

(iii) was incorporated before January 1, 2006.

(Enacted by Acts 1999, 76th Leg., ch. 1084 (H.B. 3407), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(51), effective September 1, 2001 (renumbered from Sec. 552.0035); am. Acts 2007, 80th Leg., ch. 1367 (H.B. 3674), § 2, effective September 1, 2007.)

Sec. 552.0037. Certain Entities Authorized to Take Property Through Eminent Domain [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 81 (S.B. 18), § 23, effective September 1, 2011.

(Enacted by Acts 2005, 79th Leg., 2nd C.S., ch. 1 (S.B. 7), § 2, effective November 18, 2005.)

Sec. 552.0038. Public Retirement Systems Subject to Law.

(a) In this section, "governing body of a public retirement system" and "public retirement system" have the meanings assigned those terms by Section 802.001.

(b) Except as provided by Subsections (c) through (i), the governing body of a public retirement system is subject to this chapter in the same manner as a governmental body.

(c) Records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of the system or in the custody of an administering firm, a carrier, or another governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. The retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general because the records are exempt from the provisions of this chapter, except as otherwise provided by this section.

(d) Records may be released to a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system or to an authorized attorney, family member, or representative acting on behalf of the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits. The retirement system may release the records to:

(1) an administering firm, carrier, or agent or attorney acting on behalf of the retirement system;

(2) another governmental entity having a legitimate need for the information to perform the purposes of the retirement system; or

(3) a party in response to a subpoena issued under applicable law.

(e) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule

relating to the protection of confidential information.

(f) The records of an individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system remain confidential after release to a person as authorized by this section. The records may become part of the public record of an administrative or judicial proceeding related to a contested case, and the member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order issued under applicable law.

(g) The retirement system may require a person to provide the person's social security number as the system considers necessary to ensure the proper administration of all services, benefits, plans, and programs under the retirement system's administration, oversight, or participation or as otherwise required by state or federal law.

(h) The retirement system has sole discretion in determining whether a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system under any retirement plan or program administered by the retirement system.

(i) To the extent of a conflict between this section and any other law with respect to the confidential information held by a public retirement system or other entity described by Subsection (c) concerning an individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system, the prevailing provision is the provision that provides the greater substantive and procedural protection for the privacy of information concerning that individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits.

(Enacted by Acts 2011, 82nd Leg., ch. 809 (H.B. 2460), § 1, effective June 17, 2011.)

Sec. 552.004. Preservation of Information.

A governmental body or, for information of an elective county office, the elected county officer, may determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.)

Sec. 552.005. Effect of Chapter on Scope of Civil Discovery.

(a) This chapter does not affect the scope of civil discovery under the Texas Rules of Civil Procedure.

(b) Exceptions from disclosure under this chapter do not create new privileges from discovery.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.0055. Subpoena Duces Tecum or Discovery Request.

A subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 2, effective September 1, 1999.)

Sec. 552.006. Effect of Chapter on Withholding Public Information.

This chapter does not authorize the withholding of public information or limit the availability of public information to the public, except as expressly provided by this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.)

Sec. 552.007. Voluntary Disclosure of Certain Information When Disclosure Not Required.

(a) This chapter does not prohibit a governmental body or its officer for public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law.

(b) Public information made available under Subsection (a) must be made available to any person.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.)

Sec. 552.008. Information for Legislative Purposes.

(a) This chapter does not grant authority to withhold information from individual members, agencies, or committees of the legislature to use for legislative purposes.

(b) A governmental body on request by an individual member, agency, or committee of the legislature shall provide public information, including confidential information, to the requesting member, agency, or committee for inspection or duplication in accordance with this chapter if the requesting member, agency, or committee states that the public information is requested under this chapter for legislative purposes. A governmental body, by providing public information under this section that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal law or waive the right to assert exceptions to required disclosure of the information in the future. The governmental body may require the requesting individual member of the legislature, the requesting legislative agency or committee, or the members or employees of the requesting entity who will view or handle information that is received under this section and that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

(1) the information not be disclosed outside the requesting entity, or within the requesting entity for purposes other than the purpose for which it was received;

(2) the information be labeled as confidential;

(3) the information be kept securely; or

(4) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned to the governmental body remaining confidential and subject to the confidentiality agreement.

(b-1) A member, committee, or agency of the legislature required by a governmental body to sign a confidentiality agreement under Subsection (b) may seek a decision as provided by Subsection (b-2) about whether the information covered by the confidentiality agreement is confidential under law. A confidentiality agreement signed under Subsection (b) is void to the extent that the agreement covers information that is finally determined under Subsection (b-2) to not be confidential under law.

(b-2) The member, committee, or agency of the legislature may seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the information covered by the confidentiality agreement is confidential under law, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court. A person may appeal a decision of the attorney general under this subsection to a Travis County district court if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

(c) This section does not affect:

(1) the right of an individual member, agency, or committee of the legislature to obtain information from a governmental body under other law, including under the rules of either house of the legislature;

(2) the procedures under which the information is obtained under other law; or

(3) the use that may be made of the information obtained under other law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1364 (S.B. 671), § 1, effective September 1, 2010; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 2, effective September 1, 2010.)

Sec. 552.009. Open Records Steering Committee: Advice to Attorney General; Electronic Availability of Public Information.

(a) The open records steering committee is composed of two representatives of the attorney general's office and:

(1) a representative of each of the following, appointed by its governing entity:

(A) the comptroller's office;

(B) the Department of Public Safety;

(C) the Department of Information Resources; and

(D) the Texas State Library and Archives Commission;

(2) five public members, appointed by the attorney general; and

(3) a representative of each of the following types of local governments, appointed by the attorney general:

(A) a municipality;

(B) a county; and

(C) a school district.

(b) The representative of the attorney general designated by the attorney general is the presiding officer of the committee. The committee shall meet as prescribed by committee procedures or at the call of the presiding officer.

(c) The committee shall advise the attorney general regarding the office of the attorney general's performance of its duties under Sections 552.010, 552.205, 552.262, 552.269, and 552.274.

(d) The members of the committee who represent state governmental bodies and the public members of the committee shall periodically study and determine the types of public information for which it would be useful to the public or cost-effective for the government if the type of information were made available by state governmental bodies by means of the Internet or another electronic format. The committee shall report its findings and recommendations to the governor, the presiding officer of each house of the legislature, and the budget committee and state affairs committee of each house of the legislature.

(e) Chapter 2110 does not apply to the size, composition, or duration of the committee. Chapter 2110 applies to the reimbursement of a public member's expenses related to service on the committee. Any reimbursement of the expenses of a member who represents a state or local governmental body may be paid only from funds available to the state or local governmental body the member represents.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 3, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 1, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 3.06, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 3, effective September 1, 2009.)

Sec. 552.010. State Governmental Bodies: Fiscal and Other Information Relating to Making Information Accessible.

(a) Each state governmental body shall report to the attorney general the information the attorney general requires regarding:

(1) the number and nature of requests for information the state governmental body processes under this chapter in the period covered by the report; and

(2) the cost to the state governmental body in that period in terms of capital expenditures and personnel time of:

(A) responding to requests for information under this chapter; and

(B) making information available to the public by means of the Internet or another electronic format.

(b) The attorney general shall design and phase in the reporting requirements in a way that:

(1) minimizes the reporting burden on state governmental bodies; and

(2) allows the legislature and state governmental bodies to estimate the extent to which it is cost-effective for state government, and if possible the extent to which it is cost-effective or useful for members of the public, to make information available to the public by means of the Internet or another electronic format as a supplement or alternative to publicizing the information only in other ways or making the information available only in response to requests made under this chapter.

(c) The attorney general shall share the information reported under this section with the open records steering committee.

(Enacted by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 27.01, effective January 11, 2004; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 2, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 2, effective September 1, 2005.)

Sec. 552.011. Uniformity.

The attorney general shall maintain uniformity in the application, operation, and interpretation of this chapter. To perform this duty, the attorney general may prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 4, effective September 1, 1999.)

Sec. 552.012. Open Records Training.

(a) This section applies to an elected or appointed public official who is:

(1) a member of a multimember governmental body;

(2) the governing officer of a governmental body that is headed by a single officer rather than by a multimember governing body; or

(3) the officer for public information of a governmental body, without regard to whether the officer is elected or appointed to a specific term.

(b) Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its

officers and employees under this chapter not later than the 90th day after the date the public official:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public official; or

(2) otherwise assumes the person's duties as a public official, if the person is not required to take an oath of office to assume the person's duties.

(c) A public official may designate a public information coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under this chapter. Designation of a public information coordinator under this subsection does not relieve a public official from the duty to comply with any other requirement of this chapter that applies to the public official. The designated public information coordinator shall complete the training course regarding the responsibilities of the governmental body with which the coordinator serves and of its officers and employees under this chapter not later than the 90th day after the date the coordinator assumes the person's duties as coordinator.

(d) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) the general background of the legal requirements for open records and public information;

(2) the applicability of this chapter to governmental bodies;

(3) procedures and requirements regarding complying with a request for information under this chapter;

(4) the role of the attorney general under this chapter; and

(5) penalties and other consequences for failure to comply with this chapter.

(e) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its public officials' or, if applicable, the public information coordinator's completion of the training.

(f) Completing the required training as a public official of the governmental body satisfies the requirements of this section with regard to the public official's service on a committee or subcommittee of the governmental body and the public official's ex officio service on any other governmental body.

(g) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open records required by law for a public official or public information coordinator. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

(h) A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 105 (S.B. 286), § 2, effective January 1, 2006.)

SUBCHAPTER B
RIGHT OF ACCESS TO PUBLIC INFORMATION

Sec. 552.021. Availability of Public Information.

Public information is available to the public at a minimum during the normal business hours of the governmental body.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 2, effective September 1, 1995.)

Sec. 552.0215. Right of Access to Certain Information After 75 Years.

(a) Except as provided by Section 552.147, the confidentiality provisions of this chapter, or other law, information that is not confidential but is excepted from required disclosure under Subchapter C is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body.

(b) This section does not limit the authority of a governmental body to establish retention periods for records under applicable law.

(Enacted by Acts 2011, 82nd Leg., ch. 462 (S.B. 1907), § 1, effective September 1, 2011.)

Sec. 552.022. Categories of Public Information; Examples.

(a) Without limiting the amount or kind of information that is public information under this chap-

ter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

(4) the name of each official and the final record of voting on all proceedings in a governmental body;

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

(6) the name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code;

(7) a description of an agency's central and field organizations, including:

(A) the established places at which the public may obtain information, submit information or requests, or obtain decisions;

(B) the employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(C) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and

(D) the methods by which the public may obtain information, submit information or requests, or obtain decisions;

(8) a statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(9) a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;

(10) a substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency;

(11) each amendment, revision, or repeal of information described by Subdivisions (7)-(10);

(12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases;

(13) a policy statement or interpretation that has been adopted or issued by an agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public;

(15) information regarded as open to the public under an agency's policies;

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;

(17) information that is also contained in a public court record; and

(18) a settlement agreement to which a governmental body is a party.

(b) A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is confidential under this chapter or other law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 3, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 5, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 40 provides: "The changes in law made by this Act to Sections 552.022, 552.263, and 552.301, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act [September 1, 2011]. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 552.0221. Employee or Trustee of Public Employee Pension System.

(a) Information concerning the employment of an employee of a public employee pension system is public information under the terms of this chapter, including information concerning the income, salary, benefits, and bonuses received from the pension system by the employee in the person's capacity as an employee of the system, and is not removed from the application of this chapter, made confidential, or otherwise excepted from the requirements of Section 552.021 by any statute intended to protect the records of persons as members, beneficiaries, or

retirees of a public employee pension system in their capacity as such.

(b) Information concerning the service of a trustee of a public employee pension system is public information under the terms of this chapter, including information concerning the income, salary, benefits, and bonuses received from the pension system by the trustee in the person's capacity as a trustee of the system, and is not removed from the application of this chapter, made confidential, or otherwise excepted from the requirements of Section 552.021 by any statute intended to protect the records of persons as members, beneficiaries, or retirees of a public employee pension system in their capacity as such.

(c) Information subject to Subsections (a) and (b) must be released only to the extent the information is not excepted from required disclosure under this subchapter or Subchapter C.

(d) For purposes of this section, "benefits" does not include pension benefits provided to an individual by a pension system under the statutory plan covering the individual as a member, beneficiary, or retiree of the pension system.

(Enacted by Acts 2009, 81st Leg., ch. 58 (S.B. 1071), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 58 (S.B. 1071), § 2 provides: "Section 552.0221, Government Code, as added by this Act, applies only in relation to a request for public information made on or after the effective date of this Act [September 1, 2009]."

Sec. 552.0225. Right of Access to Investment Information.

(a) Under the fundamental philosophy of American government described by Section 552.001, it is the policy of this state that investments of government are investments of and for the people and the people are entitled to information regarding those investments. The provisions of this section shall be liberally construed to implement this policy.

(b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter:

(1) the name of any fund or investment entity the governmental body is or has invested in;

(2) the date that a fund or investment entity described by Subdivision (1) was established;

(3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);

(4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;

(5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;

(6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;

(7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;

(8) the remaining value of any fund or investment entity the governmental body is or has invested in;

(9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal of any fund or investment entity in which the governmental body is or has invested;

(10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or has invested;

(11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;

(12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;

(13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;

(14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

(15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and

(16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

(c) This section does not apply to the Texas Mutual Insurance Company or a successor to the company.

(d) This section does not apply to a private investment fund's investment in restricted securities, as defined in Section 552.143.

(Enacted by Acts 2005, 79th Leg., ch. 1338 (S.B. 121), § 1, effective June 18, 2005.)

Sec. 552.023. Special Right of Access to Confidential Information.

(a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.

(c) A release of information under Subsections (a) and (b) is not an offense under Section 552.352.

(d) A person who receives information under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 4, effective September 1, 1995.)

Sec. 552.024. Electing to Disclose Address and Telephone Number.

(a) Except as provided by Subsection (a-1), each employee or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to the information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

(a-1) A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

(b) Each employee and official and each former employee and official shall state that person's choice under Subsection (a) to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which:

(1) the employee begins employment with the governmental body;

(2) the official is elected or appointed; or

(3) the former employee or official ends service with the governmental body.

(c) If the employee or official or former employee or official chooses not to allow public access to the information:

(1) the information is protected under Subchapter C; and

(2) the governmental body may redact the information from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c-1) If, under Subsection (c)(2), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(c-2) A governmental body that redacts or withholds information under Subsection (c)(2) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(d) If an employee or official or a former employee or official fails to state the person's choice within the period established by this section, the information is subject to public access.

(e) An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

(f) This section does not apply to a person to whom Section 552.1175 applies.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 5, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 1, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 1, effective June 4, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 183 (H.B. 2961), § 1, effective September 1, 2013.)

Sec. 552.025. Tax Rulings and Opinions.

(a) A governmental body with taxing authority that issues a written determination letter, technical advice memorandum, or ruling that concerns a tax matter shall index the letter, memorandum, or ruling by subject matter.

(b) On request, the governmental body shall make the index prepared under Subsection (a) and the document itself available to the public, subject to the provisions of this chapter.

(c) Subchapter C does not authorize withholding from the public or limiting the availability to the public of a written determination letter, technical advice memorandum, or ruling that concerns a tax matter and that is issued by a governmental body with taxing authority.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.026. Education Records.

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.027. Exception: Information Available Commercially; Resource Material.

(a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.

(b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.
(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 12, effective September 1, 1995.)

Sec. 552.028. Request for Information from Incarcerated Individual.

(a) A governmental body is not required to accept or comply with a request for information from:

(1) an individual who is imprisoned or confined in a correctional facility; or

(2) an agent of that individual, other than that individual's attorney when the attorney is requesting information that is subject to disclosure under this chapter.

(b) This section does not prohibit a governmental body from disclosing to an individual described by Subsection (a)(1), or that individual's agent, information held by the governmental body pertaining to that individual.

(c) In this section, "correctional facility" means:

(1) a secure correctional facility, as defined by Section 1.07, Penal Code;

(2) a secure correctional facility and a secure detention facility, as defined by Section 51.02, Family Code; and

(3) a place designated by the law of this state, another state, or the federal government for the confinement of a person arrested for, charged with, or convicted of a criminal offense.

(Enacted by Acts 1995, 74th Leg., ch. 302 (H.B. 949), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(44), effective September 1, 1997 (renumbered from Sec. 552.027); am. Acts 1999, 76th Leg., ch. 154 (S.B. 744), § 1, effective May 21, 1999; am. Acts 2001, 77th Leg., ch. 735 (S.B. 840), § 1, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 283 (H.B. 2319), § 45, effective September 1, 2003.)

Sec. 552.029. Right of Access to Certain Information Relating to Inmate of Department of Criminal Justice.

Notwithstanding Section 508.313 or 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the Texas Department of Criminal Justice is subject to required disclosure under Section 552.021:

(1) the inmate's name, identification number, age, birthplace, department photograph, physical description, or general state of health or the nature of an injury to or critical illness suffered by the inmate;

(2) the inmate's assigned unit or the date on which the unit received the inmate, unless disclosure of the information would violate federal law relating to the confidentiality of substance abuse treatment;

(3) the offense for which the inmate was convicted or the judgment and sentence for that offense;

(4) the county and court in which the inmate was convicted;

(5) the inmate's earliest or latest possible release dates;

(6) the inmate's parole date or earliest possible parole date;

(7) any prior confinement of the inmate by the Texas Department of Criminal Justice or its predecessor; or

(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

(Enacted by Acts 1999, 76th Leg., ch. 783 (H.B. 1379), § 2, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.002(7), effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1271 (H.B. 2197), § 1, effective June 18, 2005.)

SUBCHAPTER C
INFORMATION EXCEPTED FROM REQUIRED DISCLOSURE

Sec. 552.101. Exception: Confidential Information.

Information is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.102. Exception: Confidentiality of Certain Personnel Information.

(a) Information is excepted from the requirements of Section 552.021 if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter. The exception to public disclosure created by this subsection is in addition to any exception created by Section 552.024. Public access to personnel information covered by Section 552.024 is denied to the extent provided by that section.

(b) Information is excepted from the requirements of Section 552.021 if it is a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, except that this section does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 6, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 3, effective September 1, 2011.)

Sec. 552.103. Exception: Litigation or Settlement Negotiations Involving the State or a Political Subdivision.

(a) Information is excepted from the requirements of Section 552.021 if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

(b) For purposes of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court.

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 6, effective September 1, 1999.)

Sec. 552.104. Exception: Information Related to Competition or Bidding.

(a) Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

(b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001,

77th Leg., ch. 1272 (S.B. 1458), § 7.01, effective June 15, 2001.)

Sec. 552.105. Exception: Information Related to Location or Price of Property.

Information is excepted from the requirements of Section 552.021 if it is information relating to:

(1) the location of real or personal property for a public purpose prior to public announcement of the project; or

(2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.106. Exception: Certain Legislative Documents.

(a) A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of Section 552.021.

(b) An internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation is excepted from the requirements of Section 552.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1437 (H.B. 3157), § 1, effective June 20, 1997.)

Sec. 552.107. Exception: Certain Legal Matters.

Information is excepted from the requirements of Section 552.021 if:

(1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or

(2) a court by order has prohibited disclosure of the information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 7, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 8.014, effective September 1, 2005.)

Sec. 552.108. Exception: Certain Law Enforcement, Corrections, and Prosecutorial Information.

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(3) it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 7, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 474 (H.B. 776), § 6, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 557 (H.B. 1262), § 3, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 557 (H.B. 1262), § 4, effective September 1, 2005.)

Sec. 552.1085. Confidentiality of Sensitive Crime Scene Image.

(a) In this section:

(1) "Deceased person's next of kin" means:

(A) the surviving spouse of the deceased person;

(B) if there is no surviving spouse of the deceased, an adult child of the deceased person; or

(C) if there is no surviving spouse or adult child of the deceased, a parent of the deceased person.

(2) "Defendant" means a person being prosecuted for the death of the deceased person or a person convicted of an offense in relation to that death and appealing that conviction.

(3) "Expressive work" means:

(A) a fictional or nonfictional entertainment, dramatic, literary, or musical work that is a play, book, article, musical composition, audiovisual work, radio or television program, work of art, or work of political, educational, or newsworthy value;

(B) a work the primary function of which is the delivery of news, information, current events, or other matters of public interest or concern; or

(C) an advertisement or commercial announcement of a work described by Paragraph (A) or (B).

(4) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, or other political subdivision of this state.

(5) "Public or private institution of higher education" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education, as defined by Section 61.003, Education Code.

(6) "Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia.

(7) "State agency" means a department, commission, board, office, or other agency that is a part of state government and that is created by the constitution or a statute of this state. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) For purposes of this section, an Internet website, the primary function of which is not the delivery of news, information, current events, or other matters of public interest or concern, is not an expressive work.

(c) A sensitive crime scene image in the custody of a governmental body is confidential and excepted from the requirements of Section 552.021 and a governmental body may not permit a person to view or copy the image except as provided by this section. This section applies to any sensitive crime scene image regardless of the date that the image was taken or recorded.

(d) Notwithstanding Subsection (c) and subject to Subsection (e), the following persons may view or copy information that constitutes a sensitive crime scene image from a governmental body:

(1) the deceased person's next of kin;

(2) a person authorized in writing by the deceased person's next of kin;

(3) a defendant or the defendant's attorney;

(4) a person who establishes to the governmental body an interest in a sensitive crime scene image that is based on, connected with, or in support of the creation, in any medium, of an expressive work;

(5) a person performing bona fide research sponsored by a public or private institution of higher education with approval of a supervisor of the research or a supervising faculty member;

(6) a state agency;

(7) an agency of the federal government; or

(8) a local governmental entity.

(e) This section does not prohibit a governmental body from asserting an exception to disclosure of a sensitive crime scene image to a person identified in Subsection (d) on the grounds that the image is excepted from the requirements of Section 552.021 under another provision of this chapter or another law.

(f) Not later than the 10th business day after the date a governmental body receives a request for a sensitive crime scene image from a person described by Subsection (d)(4) or (5), the governmental body shall notify the deceased person's next of kin of the request in writing. The notice must be sent to the next of kin's last known address.

(g) A governmental body that receives a request for information that constitutes a sensitive crime scene image shall allow a person described in Subsection (d) to view or copy the image not later than the 10th business day after the date the governmental body receives the request unless the governmental body files a request for an attorney general decision under Subchapter G regarding whether an exception to public disclosure applies to the information.

(Enacted by Acts 2013, 83rd Leg., ch. 1360 (S.B. 1512), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1360 (S.B. 1512), § 2 provides:

"(a) The change in law made by this Act applies only to the disclosure or copying of a sensitive crime scene image on or after September 1, 2013.

(b) The disclosure or copying of a sensitive crime scene image before September 1, 2013, is covered by the law in effect when the

image was disclosed or copied, and the former law is continued in effect for that purpose."

Sec. 552.109. Exception: Confidentiality of Certain Private Communications of an Elected Office Holder.

Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of Section 552.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 4, effective September 1, 2011.)

Sec. 552.110. Exception: Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information.

(a) A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from the requirements of Section 552.021.

(b) Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 7, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 5, effective September 1, 2011.)

Sec. 552.111. Exception: Agency Memoranda.

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.112. Exception: Certain Information Relating to Regulation of Financial Institutions or Securities.

(a) Information is excepted from the requirements of Section 552.021 if it is information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

(b) In this section, "securities" has the meaning assigned by The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

(c) Information is excepted from the requirements of Section 552.021 if it is information submitted by an individual or other entity to the Texas Legislative Council, or to any state agency or department overseen by the Finance Commission of Texas and the information has been or will be sent to the Texas Legislative Council, for the purpose of performing a statistical or demographic analysis of information subject to Section 323.020. However, this subsection does not except from the requirements of Section 552.021 information that does not identify or tend to identify an individual or other entity and that is subject to required public disclosure under Section 323.020(e).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 918 (S.B. 1000), § 2, effective June 20, 2003.)

Sec. 552.113. Exception: Confidentiality of Geological or Geophysical Information.

(a) Information is excepted from the requirements of Section 552.021 if it is:

(1) an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code;

(2) geological or geophysical information or data, including maps concerning wells, except information filed in connection with an application or proceeding before an agency; or

(3) confidential under Subsections (c) through (f).

(b) Information that is shown to or examined by an employee of the General Land Office, but not retained in the land office, is not considered to be filed with the land office.

(c) In this section:

(1) "Confidential material" includes all well logs, geological, geophysical, geochemical, and other similar data, including maps and other interpretations of the material filed in the General Land Office:

(A) in connection with any administrative application or proceeding before the land commissioner, the school land board, any board for lease, or the commissioner's or board's staff; or

(B) in compliance with the requirements of any law, rule, lease, or agreement.

(2) "Electric logs" has the same meaning as it has in Chapter 91, Natural Resources Code.

(3) "Administrative applications" and "administrative proceedings" include applications for pooling or unitization, review of shut-in royalty payments, review of leases or other agreements to determine their validity, review of any plan of operations, review of the obligation to drill offset

wells, or an application to pay compensatory royalty.

(d) Confidential material, except electric logs, filed in the General Land Office on or after September 1, 1985, is public information and is available to the public under Section 552.021 on and after the later of:

(1) five years from the filing date of the confidential material; or

(2) one year from the expiration, termination, or forfeiture of the lease in connection with which the confidential material was filed.

(e) Electric logs filed in the General Land Office on or after September 1, 1985, are either public information or confidential material to the same extent and for the same periods provided for the same logs by Chapter 91, Natural Resources Code. A person may request that an electric log that has been filed in the General Land Office be made confidential by filing with the land office a copy of the written request for confidentiality made to the Railroad Commission of Texas for the same log.

(f) The following are public information:

(1) electric logs filed in the General Land Office before September 1, 1985; and

(2) confidential material, except electric logs, filed in the General Land Office before September 1, 1985, provided, that Subsection (d) governs the disclosure of that confidential material filed in connection with a lease that is a valid and subsisting lease on September 1, 1995.

(g) Confidential material may be disclosed at any time if the person filing the material, or the person's successor in interest in the lease in connection with which the confidential material was filed, consents in writing to its release. A party consenting to the disclosure of confidential material may restrict the manner of disclosure and the person or persons to whom the disclosure may be made.

(h) Notwithstanding the confidential nature of the material described in this section, the material may be used by the General Land Office in the enforcement, by administrative proceeding or litigation, of the laws governing the sale and lease of public lands and minerals, the regulations of the land office, the school land board, or of any board for lease, or the terms of any lease, pooling or unitization agreement, or any other agreement or grant.

(i) An administrative hearings officer may order that confidential material introduced in an administrative proceeding remain confidential until the proceeding is finally concluded, or for the period provided in Subsection (d), whichever is later.

(j) Confidential material examined by an administrative hearings officer during the course of an administrative proceeding for the purpose of determining its admissibility as evidence shall not be considered to have been filed in the General Land Office to the extent that the confidential material is not introduced into evidence at the proceeding.

(k) This section does not prevent a person from asserting that any confidential material is exempt from disclosure as a trade secret or commercial information under Section 552.110 or under any other basis permitted by law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 8, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 6, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 279 (H.B. 878), §§ 4, 5, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 279 (H.B. 878), § 7 provides: "The changes in law made by this Act apply only to a drilling operation that is completed on or after the effective date of this Act [September 1, 2013]. A drilling operation that is completed before the effective date of this Act is subject to the law in effect on the date of completion, and that law is continued in effect for that purpose."

Sec. 552.114. Exception: Confidentiality of Student Records.

(a) Information is excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue.

(b) A record under Subsection (a) shall be made available on the request of:

(1) educational institution personnel;

(2) the student involved or the student's parent, legal guardian, or spouse; or

(3) a person conducting a child abuse investigation required by Subchapter D, Chapter 261, Family Code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 7.38, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 7, effective September 1, 2011.)

Sec. 552.115. Exception: Confidentiality of Birth and Death Records.

(a) A birth or death record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official is excepted from the requirements of Section 552.021, except that:

(1) a birth record is public information and available to the public on and after the 75th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official;

(2) a death record is public information and available to the public on and after the 25th anniversary of the date of death as shown on the record filed with the bureau of vital statistics or local registration official;

(3) a general birth index or a general death index established or maintained by the bureau of vital statistics or a local registration official is public information and available to the public to the extent the index relates to a birth record or death record that is public information and available to the public under Subdivision (1) or (2);

(4) a summary birth index or a summary death index prepared or maintained by the bureau of vital statistics or a local registration official is public information and available to the public; and

(5) a birth or death record is available to the chief executive officer of a home-rule municipality or the officer's designee if:

(A) the record is used only to identify a property owner or other person to whom the municipality is required to give notice when enforcing a state statute or an ordinance;

(B) the municipality has exercised due diligence in the manner described by Section 54.035(e), Local Government Code, to identify the person; and

(C) the officer or designee signs a confidentiality agreement that requires that:

(i) the information not be disclosed outside the office of the officer or designee, or within the office for a purpose other than the purpose described by Paragraph (A);

(ii) the information be labeled as confidential;

(iii) the information be kept securely; and

(iv) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned remaining confidential and subject to the confidentiality agreement.

(b) Notwithstanding Subsection (a), a general birth index or a summary birth index is not public information and is not available to the public if:

(1) the fact of an adoption or paternity determination can be revealed by the index; or

(2) the index contains specific identifying information relating to the parents of a child who is the subject of an adoption placement.

(c) Subsection (a)(1) does not apply to the microfilming agreement entered into by the Genealogical Society of Utah, a nonprofit corporation organized under the laws of the State of Utah, and the Archives and Information Services Division of the Texas State Library and Archives Commission.

(d) For the purposes of fulfilling the terms of the agreement in Subsection (c), the Genealogical Society of Utah shall have access to birth records on and after the 50th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official, but such birth records shall not be made available to the public until the 75th anniversary of the date of birth as shown on the record.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 706 (H.B. 836), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 413 (H.B. 1833), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1192 (S.B. 861), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 8, effective September 1, 2011.)

Sec. 552.116. Exception: Audit Working Papers.

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

(b) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, the bylaws adopted by or other action of the governing board of a hospital district, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1122 (H.B. 2906), § 10, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 8, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 379 (S.B. 1581), § 1, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 202 (H.B. 1285), § 1, effective May 27, 2005; am. Acts 2005, 79th Leg., ch. 202 (H.B. 1285), § 2, effective May 27, 2005; am. Acts 2007, 80th Leg., ch. 1372 (S.B. 9), §§ 24, 25, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1170 (H.B. 2947), §§ 1, 2, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1170 (H.B. 2947), § 3 provides: "The change in law made by this Act applies to an audit working paper created before, on, or after the effective date of this Act [June 17, 2011]."

Sec. 552.117. Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information.

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person or that reveals whether the person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;

(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(3) a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(4) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(6) an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section 552.024 or 552.1175;

(7) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(8) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department, regardless of whether the current or former employee complies with Section 552.1175;

(9) a juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code; or

(10) employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code.

(b) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 9, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 512 (S.B. 1544), § 1, effective May 31, 1997; am. Acts 1999, 76th Leg., ch. 1318 (S.B. 1846), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 947 (S.B. 1388), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 621 (H.B. 455), § 1, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 953 (H.B. 1046), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 9, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1033 (H.B. 2733), § 2, effective September 1, 2013.)

Sec. 552.1175. [2 Versions: As amended by Acts 2013, 83rd Leg., ch. 937] Confidentiality of Certain Identifying Information of Peace Officers, County Jailers, Security Officers, Employees of the Texas Department of Criminal Justice or a Prosecutor's Office, and Federal and State Judges.

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure;

(2) county jailers as defined by Section 1701.001, Occupations Code;

(3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;

(4) commissioned security officers as defined by Section 1702.002, Occupations Code;

(5) employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);

(7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure;

(8) police officers and inspectors of the United States Federal Protective Service;

(9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement; and

(10) federal judges and state judges as defined by Section 13.0021, Election Code.

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not apply to information in the tax appraisal records of an appraisal district to which Section 25.025, Tax Code, applies.

(e) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(f) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(g) If, under Subsection (f), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(h) A governmental body that redacts or withholds information under Subsection (f) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(Enacted by Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 947 (S.B. 1388), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 715 (S.B. 450), §§ 1, 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 621 (H.B. 455), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 2, effective June 4, 2009; am. Acts 2009, 81st Leg., ch. 732 (S.B. 390), § 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 3, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 953 (H.B. 1046), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 937 (H.B. 1632), §§ 2, 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 732 (S.B. 390), § 4 provides: "The changes in law made by this Act to Section 552.1175,

Government Code, and Section 25.025, Tax Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act [September 1, 2009]. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 552.1175. [2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1033] Confidentiality of Certain Personal Information of Peace Officers, County Jailers, Security Officers, and Employees of Certain Criminal or Juvenile Justice Agencies or Offices.

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure;

(2) county jailers as defined by Section 1701.001, Occupations Code;

(3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;

(4) commissioned security officers as defined by Section 1702.002, Occupations Code;

(5) employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);

(7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure;

(8) police officers and inspectors of the United States Federal Protective Service;

(9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement;

(10) juvenile probation and detention officers certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;

(11) employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code; and

(12) current or former employees of the Texas Juvenile Justice Department or the predecessors in function of the department.

(b) Information that relates to the home address, home telephone number, emergency contact information, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not apply to information in the tax appraisal records of an appraisal district to which Section 25.025, Tax Code, applies.

(e) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(f) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(g) If, under Subsection (f), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(h) A governmental body that redacts or withholds information under Subsection (f) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(Enacted by Acts 2001, 77th Leg., ch. 119 (S.B. 247), § 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 947 (S.B. 1388), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 715 (S.B. 450), §§ 1, 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 621 (H.B. 455), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 2, effective June 4, 2009; am. Acts 2009, 81st Leg., ch. 732 (S.B. 390), § 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 3, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 953 (H.B. 1046), § 2, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 1033 (H.B. 2733), §§ 3, 4, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 732 (S.B. 390), § 4 provides: "The changes in law made by this Act to Section 552.1175, Government Code, and Section 25.025, Tax Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act [September 1, 2009]. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 552.1176. Confidentiality of Certain Information Maintained by State Bar.

(a) Information that relates to the home address, home telephone number, electronic mail address, social security number, or date of birth of a person licensed to practice law in this state that is maintained under Chapter 81 is confidential and may not be disclosed to the public under this chapter if the person to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the State Bar of Texas of the person's choice, in writing or electronically, on a form provided by the state bar.

(b) A choice made under Subsection (a) remains valid until rescinded in writing or electronically by the person.

(c) All documents filed with a county clerk and all documents filed with a district clerk are exempt from this section.

(Enacted by Acts 2007, 80th Leg., ch. 95 (H.B. 1237), § 1, effective September 1, 2007.)

Sec. 552.118. Exception: Confidentiality of Official Prescription Program Information.

Information is excepted from the requirements of Section 552.021 if it is:

(1) information on or derived from an official prescription form or electronic prescription record filed with the director of the Department of Public Safety under Section 481.075, Health and Safety Code; or

(2) other information collected under Section 481.075 of that code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 745 (H.B. 1070), § 35, effective January 1, 1998; am. Acts 2001, 77th Leg., ch. 251 (S.B. 753), § 30, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1228 (S.B. 594), § 6, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 10, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1228 (S.B. 594), § 9 provides: "The change in law made by this Act applies only to the issuance of a prescription on or after the effective date of this Act [September 1, 2011]. The issuance of a prescription before the effective date of this Act is covered by the law in effect when the prescription was issued, and the former law is continued in effect for that purpose."

Sec. 552.119. Exception: Confidentiality of Certain Photographs of Peace Officers.

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from the requirements of Section 552.021 unless:

(1) the officer is under indictment or charged with an offense by information;

(2) the officer is a party in a civil service hearing or a case in arbitration; or

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 8 (S.B. 148), § 1, effective May 3, 2005; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 11, effective September 1, 2011.)

Sec. 552.120. Exception: Confidentiality of Certain Rare Books and Original Manuscripts.

A rare book or original manuscript that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 12, effective September 1, 2011.)

Sec. 552.121. Exception: Confidentiality of Certain Documents Held for Historical Research.

An oral history interview, personal paper, unpublished letter, or organizational record of a nongovernmental entity that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of Section 552.021 to the extent that the archival and manuscript repository and the donor of the interview, paper, letter, or record agree to limit disclosure of the item.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 13, effective September 1, 2011.)

Sec. 552.122. Exception: Test Items.

(a) A test item developed by an educational institution that is funded wholly or in part by state revenue is excepted from the requirements of Section 552.021.

(b) A test item developed by a licensing agency or governmental body is excepted from the requirements of Section 552.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.05(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 10, effective September 1, 1995.)

Sec. 552.123. Exception: Confidentiality of Name of Applicant for Chief Executive Officer of Institution of Higher Education.

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of Section 552.021, except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 1049 (S.B. 5), § 5.01, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 14, effective September 1, 2011.)

Sec. 552.1235. Exception: Confidentiality of Identity of Private Donor to Institution of Higher Education.

(a) The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education is excepted from the requirements of Section 552.021.

(b) Subsection (a) does not except from required disclosure other information relating to gifts, grants, and donations described by Subsection (a), including the amount or value of an individual gift, grant, or donation.

(c) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(Enacted by Acts 2003, 78th Leg., ch. 1266 (S.B. 1652), § 4.07, effective June 21, 2003; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 15, effective September 1, 2011.)

Sec. 552.124. Exception: Confidentiality of Records of Library or Library System.

(a) A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of Section 552.021 unless the record is disclosed:

(1) because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;

(2) under Section 552.023; or

(3) to a law enforcement agency or a prosecutor under a court order or subpoena obtained after a showing to a district court that:

(A) disclosure of the record is necessary to protect the public safety; or

(B) the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

(b) A record of a library or library system that is excepted from required disclosure under this section is confidential.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.03(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 11, effective

September 1, 1995; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 16, effective September 1, 2011.)

Sec. 552.125. Exception: Certain Audits.

Any documents or information privileged under the Texas Environmental, Health, and Safety Audit Privilege Act are excepted from the requirements of Section 552.021.

(Enacted by Acts 1995, 74th Leg., ch. 219 (H.B. 2473), § 14, effective May 23, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(45), effective September 1, 1997 (renumbered from Sec. 552.124).)

Sec. 552.126. Exception: Confidentiality of Name of Applicant for Superintendent of Public School District.

The name of an applicant for the position of superintendent of a public school district is excepted from the requirements of Section 552.021, except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 31, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(46), effective September 1, 1997 (renumbered from Sec. 552.124); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 17, effective September 1, 2011.)

Sec. 552.127. Exception: Confidentiality of Personal Information Relating to Participants in Neighborhood Crime Watch Organization.

(a) Information is excepted from the requirements of Section 552.021 if the information identifies a person as a participant in a neighborhood crime watch organization and relates to the name, home address, business address, home telephone number, or business telephone number of the person.

(b) In this section, "neighborhood crime watch organization" means a group of residents of a neighborhood or part of a neighborhood that is formed in affiliation or association with a law enforcement agency in this state to observe activities within the neighborhood or part of a neighborhood and to take other actions intended to reduce crime in that area.

(Enacted by Acts 1997, 75th Leg., ch. 719 (H.B. 273), § 1, effective June 17, 1997; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 18, effective September 1, 2011.)

Sec. 552.128. Exception: Confidentiality of Certain Information Submitted by Potential Vendor or Contractor.

(a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from the requirements of Section 552.021, except as provided by this section.

(b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

(2) with the express written permission of the applicant or the applicant's agent.

(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

(Enacted by Acts 1997, 75th Leg., ch. 1227 (H.B. 625), § 1, effective June 30, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(51), effective September 1, 1999 (renumbered from Sec. 552.127); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 19, effective September 1, 2011.)

Sec. 552.129. Confidentiality of Certain Motor Vehicle Inspection Information.

A record created during a motor vehicle emissions inspection under Subchapter F, Chapter 548, Transportation Code, that relates to an individual vehicle or owner of an individual vehicle is excepted from the requirements of Section 552.021.

(Enacted by Acts 1997, 75th Leg., ch. 1069 (S.B. 1856), § 17, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 19.01(52), effective September 1, 1999 (renumbered from Sec. 552.127); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 20, effective September 1, 2011.)

Sec. 552.130. Exception: Confidentiality of Certain Motor Vehicle Records.

(a) Information is excepted from the requirements of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

(2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

(c) Subject to Chapter 730, Transportation Code, a governmental body may redact information described by Subsection (a) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(Enacted by Acts 1997, 75th Leg., ch. 1187 (S.B. 1069), § 4, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 4, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), §§ 21, 22, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 85 (S.B. 458), § 1, effective May 18, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 85 (S.B. 458), § 2 provides: "The changes in law made by this Act apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act [May 18, 2013]. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 552.131. Exception: Confidentiality of Certain Economic Development Information.

(a) Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

(1) a trade secret of the business prospect; or

(2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.

(c) After an agreement is made with the business prospect, this section does not except from the requirements of Section 552.021 information about a financial or other incentive being offered to the business prospect:

(1) by the governmental body; or

(2) by another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a governmental body or a reduction in revenue received by a governmental body from any source.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 9, effective September 1, 1999; am. Acts

2011, 82nd Leg., ch. 1229 (S.B. 602), § 23, effective September 1, 2011.)

Sec. 552.132. Confidentiality of Crime Victim or Claimant Information.

(a) Except as provided by Subsection (d), in this section, "crime victim or claimant" means a victim or claimant under Subchapter B, Chapter 56, Code of Criminal Procedure, who has filed an application for compensation under that subchapter.

(b) The following information held by the crime victim's compensation division of the attorney general's office is confidential:

(1) the name, social security number, address, or telephone number of a crime victim or claimant; or

(2) any other information the disclosure of which would identify or tend to identify the crime victim or claimant.

(c) If the crime victim or claimant is awarded compensation under Section 56.34, Code of Criminal Procedure, as of the date of the award of compensation, the name of the crime victim or claimant and the amount of compensation awarded to that crime victim or claimant are public information and are not excepted from the requirements of Section 552.021.

(d) An employee of a governmental body who is also a victim under Subchapter B, Chapter 56, Code of Criminal Procedure, regardless of whether the employee has filed an application for compensation under that subchapter, may elect whether to allow public access to information held by the attorney general's office or other governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the governmental body, be signed by the employee, and be filed with the governmental body before the third anniversary of the latest to occur of one of the following:

(1) the date the crime was committed;

(2) the date employment begins; or

(3) the date the governmental body develops the form and provides it to employees.

(e) If the employee fails to make an election under Subsection (d), the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 10, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1039 (H.B. 1027), § 1, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 290 (H.B. 1042), § 1, effective September 1, 2007.)

Sec. 552.1325. Crime Victim Impact Statement: Certain Information Confidential.

(a) In this section:

(1) "Crime victim" means a person who is a victim as defined by Article 56.32, Code of Criminal Procedure.

(2) "Victim impact statement" means a victim impact statement under Article 56.03, Code of Criminal Procedure.

(b) The following information that is held by a governmental body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential:

(1) the name, social security number, address, and telephone number of a crime victim; and

(2) any other information the disclosure of which would identify or tend to identify the crime victim.

(Enacted by Acts 2003, 78th Leg., ch. 1303 (S.B. 1015), § 1, effective June 21, 2003.)

Sec. 552.133. Exception: Confidentiality of Public Power Utility Competitive Matters.

(a) In this section, "public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

(B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

(C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;

(D) risk management information, contracts, and strategies, including fuel hedging and storage;

(E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies; and

(2) does not include the following categories of information:

(A) information relating to the provision of distribution access service, including the terms and conditions of the service and the rates charged for the service but not including information concerning utility-related services or products that are competitive;

(B) information relating to the provision of transmission service that is required to be filed with the Public Utility Commission of Texas, subject to any confidentiality provided for under the rules of the commission;

(C) information for the distribution system pertaining to reliability and continuity of service, to the extent not security-sensitive, that relates to emergency management, identification of critical loads such as hospitals and police, records of interruption, and distribution feeder standards;

(D) any substantive rule or tariff of general applicability regarding rates, service offerings, service regulation, customer protections, or customer service adopted by the public power utility as authorized by law;

(E) aggregate information reflecting receipts or expenditures of funds of the public power utility, of the type that would be included in audited financial statements;

(F) information relating to equal employment opportunities for minority groups, as filed with local, state, or federal agencies;

(G) information relating to the public power utility's performance in contracting with minority business entities;

(H) information relating to nuclear decommissioning trust agreements, of the type required to be included in audited financial statements;

(I) information relating to the amount and timing of any transfer to an owning city's general fund;

(J) information relating to environmental compliance as required to be filed with any local, state, or national environmental authority, subject to any confidentiality provided under the rules of those authorities;

(K) names of public officers of the public power utility and the voting records of those officers for all matters other than those within the scope of a competitive resolution provided for by this section;

(L) a description of the public power utility's central and field organization, including the established places at which the public may obtain information, submit information and requests, or obtain decisions and the identification of employees from whom the public may obtain information, submit information or requests, or obtain decisions;

(M) information identifying the general course and method by which the public power utility's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

(N) salaries and total compensation of all employees of a public power utility; or

(O) information publicly released by the Electric Reliability Council of Texas in accordance with a law, rule, or protocol generally applicable to similarly situated market participants.

(b) Information or records are excepted from the requirements of Section 552.021 if the information or records are reasonably related to a competitive matter, as defined in this section. Information or records of a municipally owned utility that are reasonably related to a competitive matter are not subject to disclosure under this chapter, whether or not, under the Utilities Code, the municipally owned utility has adopted customer choice or serves in a multiply certificated service area. This section does not limit the right of a public power utility governing body to withhold from disclosure information deemed to be within the scope of any other exception provided for in this chapter, subject to the provisions of this chapter.

(c) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

(Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 46, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), § 7.02, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(52), effective September 1, 2001 (renumbered from Sec. 552.131); am. Acts 2011, 82nd Leg., ch. 925 (S.B. 1613), § 2, effective

June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 24, effective September 1, 2011.)

Sec. 552.134. Exception: Confidentiality of Certain Information Relating to Inmate of Department of Criminal Justice.

(a) Except as provided by Subsection (b) or by Section 552.029, information obtained or maintained by the Texas Department of Criminal Justice is excepted from the requirements of Section 552.021 if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

(b) Subsection (a) does not apply to:

(1) statistical or other aggregated information relating to inmates confined in one or more facilities operated by or under a contract with the department; or

(2) information about an inmate sentenced to death.

(c) This section does not affect whether information is considered confidential or privileged under Section 508.313.

(d) A release of information described by Subsection (a) to an eligible entity, as defined by Section 508.313(d), for a purpose related to law enforcement, prosecution, corrections, clemency, or treatment is not considered a release of information to the public for purposes of Section 552.007 and does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

(Enacted by Acts 1999, 76th Leg., ch. 783 (H.B. 1379), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(53), effective September 1, 2001 (renumbered from Sec. 552.131); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 25, effective September 1, 2011.)

Sec. 552.135. Exception: Confidentiality of Certain Information Held by School District.

(a) "Informer" means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from the requirements of Section 552.021.

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

(d) Information excepted under Subsection (b) may be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

(e) This section does not infringe on or impair the confidentiality of information considered to be confidential by law, whether it be constitutional, statutory, or by judicial decision, including information excepted from the requirements of Section 552.021. (Enacted by Acts 1999, 76th Leg., ch. 1335 (H.B. 211), § 6, effective June 19, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(54), effective September 1, 2001 (renumbered from Sec. 552.131); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 26, effective September 1, 2011.)

Sec. 552.136. Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers.

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

(c) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and dead-

lines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(Enacted by Acts 2001, 77th Leg., ch. 356 (S.B. 694), § 1, effective May 26, 2001; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 27, effective September 1, 2011.)

Sec. 552.137. Confidentiality of Certain E-mail Addresses.

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract;

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) of this code, or receiving orders or decisions from a governmental body.

(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

(Enacted by Acts 2001, 77th Leg., ch. 356 (S.B. 694), § 1, effective May 26, 2001; am. Acts 2003, 78th Leg., ch. 1089 (H.B. 2032), § 1, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 962 (H.B. 3544), § 7, effective September 1, 2009.)

Sec. 552.138. Exception: Confidentiality of Family Violence Shelter Center, Victims of Trafficking Shelter Center, and Sexual Assault Program Information.

(a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003.

(3) "Victims of trafficking shelter center" means:

(A) a program that:

(i) is operated by a public or private nonprofit organization; and

(ii) provides comprehensive residential and nonresidential services to persons who are victims of trafficking under Section 20A.02, Penal Code; or

(B) a child-placing agency, as defined by Section 42.002, Human Resources Code, that provides services to persons who are victims of trafficking under Section 20A.02, Penal Code.

(b) Information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program is excepted from the requirements of Section 552.021 if it is information that relates to:

(1) the home address, home telephone number, or social security number of an employee or a volunteer worker of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the employee or worker complies with Section 552.024;

(2) the location or physical layout of a family violence shelter center or victims of trafficking shelter center;

(3) the name, home address, home telephone number, or numeric identifier of a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(4) the provision of services, including counseling and sheltering, to a current or former client of a family violence shelter center, victims of trafficking shelter center, or sexual assault program;

(5) the name, home address, or home telephone number of a private donor to a family violence shelter center, victims of trafficking shelter center, or sexual assault program; or

(6) the home address or home telephone number of a member of the board of directors or the board of trustees of a family violence shelter center, victims of trafficking shelter center, or sexual assault program, regardless of whether the board member complies with Section 552.024.

(c) A governmental body may redact information maintained by a family violence shelter center, victims of trafficking shelter center, or sexual assault program that may be withheld under Subsection (b)(1) or (6) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

(Enacted by Acts 2001, 77th Leg., ch. 143 (S.B. 15), § 1, effective May 16, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(75), effective September 1, 2003 (renumbered from Sec. 552.136); am. Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 3, effective June 4, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 28, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 365 (H.B. 2725), §§ 1—3, effective June 14, 2013.)

Sec. 552.139. Exception: Confidentiality of Government Information Related to Security or Infrastructure Issues for Computers.

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report;

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use; and

(3) a photocopy or other copy of an identification badge issued to an official or employee of a governmental body.

(c) Notwithstanding the confidential nature of the information described in this section, the information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. A disclosure under this subsection is not a voluntary disclosure for purposes of Section 552.007.

(Enacted by Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), § 4.03, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(76),

effective September 1, 2003 (renumbered from Sec. 552.136); am. Acts 2009, 81st Leg., ch. 183 (H.B. 1830), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 927 (S.B. 1638), § 5, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 29, effective September 1, 2011.)

Sec. 552.140. Exception: Confidentiality of Military Discharge Records.

(a) This section applies only to a military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003.

(b) The record is confidential for the 75 years following the date it is recorded with or otherwise first comes into the possession of a governmental body. During that period the governmental body may permit inspection or copying of the record or disclose information contained in the record only in accordance with this section or in accordance with a court order.

(c) On request and the presentation of proper identification, the following persons may inspect the military discharge record or obtain from the governmental body free of charge a copy or certified copy of the record:

(1) the veteran who is the subject of the record;

(2) the legal guardian of the veteran;

(3) the spouse or a child or parent of the veteran or, if there is no living spouse, child, or parent, the nearest living relative of the veteran;

(4) the personal representative of the estate of the veteran;

(5) the person named by the veteran, or by a person described by Subdivision (2), (3), or (4), in an appropriate power of attorney executed in accordance with Section 490, Chapter XII, Texas Probate Code;

(6) another governmental body; or

(7) an authorized representative of the funeral home that assists with the burial of the veteran.

(d) A court that orders the release of information under this section shall limit the further disclosure of the information and the purposes for which the information may be used.

(e) A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained.

(Enacted by Acts 2003, 78th Leg., ch. 438 (H.B. 545), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 124 (H.B. 18), § 1, effective May 24, 2005; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 30, effective September 1, 2011.)

Sec. 552.141. Confidentiality of Information in Application for Marriage License.

(a) Information that relates to the social security number of an individual that is maintained by a county clerk and that is on an application for a marriage license, including information in an application on behalf of an absent applicant and the affidavit of an absent applicant, or is on a document submitted with an application for a marriage license is confidential and may not be disclosed by the county clerk to the public under this chapter.

(b) If the county clerk receives a request to make information in a marriage license application available under this chapter, the county clerk shall redact the portion of the application that contains an individual's social security number and release the remainder of the information in the application.

(Enacted by Acts 2003, 78th Leg., ch. 804 (S.B. 174), § 1, effective September 1, 2003.)

Sec. 552.142. Exception: Confidentiality of Records of Certain Deferred Adjudications.

(a) Information is excepted from the requirements of Section 552.021 if an order of nondisclosure with respect to the information has been issued under Section 411.081(d).

(b) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the arrest and prosecution to which the information relates and the exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

(Enacted by Acts 2003, 78th Leg., ch. 1236 (S.B. 1477), § 5, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 780 (S.B. 1056), §§ 3, 4, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 731 (H.B. 961), §§ 9, 10, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 31, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 780 (S.B. 1056), § 6 provides: "The change in law made by this Act applies to a conviction that occurs on or after the effective date of this Act [June 19, 2009], regardless of whether the offense was committed before, on, or after the effective date of this Act."

Acts 2011, 82nd Leg., ch. 731 (H.B. 0961), § 14 provides: "Articles 44.2811 and 45.0217, Code of Criminal Procedure, and Section 58.00711, Family Code, as added by this Act, and Sections

11.0851(a), 552.142, and 552.1425(a), Government Code, as amended by this Act, apply to convictions before, on, or after the effective date of this Act [June 17, 2011]."

Sec. 552.1425. Civil Penalty: Dissemination of Certain Criminal History Information.

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d).

(b) A district court may issue a warning to a private entity for a first violation of Subsection (a). After receiving a warning for the first violation, the private entity is liable to the state for a civil penalty not to exceed $1,000 for each subsequent violation.

(c) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(d) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(Enacted by Acts 2003, 78th Leg., ch. 1236 (S.B. 1477), § 5, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1017 (H.B. 1303), §§ 9, 10, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 780 (S.B. 1056), § 5, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 731 (H.B. 961), § 11, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 780 (S.B. 1056), § 6 provides: "The change in law made by this Act applies to a conviction that occurs on or after the effective date of this Act [June 19, 2009], regardless of whether the offense was committed before, on, or after the effective date of this Act."

Acts 2011, 82nd Leg., ch. 731 (H.B. 0961), § 14 provides: "Articles 44.2811 and 45.0217, Code of Criminal Procedure, and Section 58.00711, Family Code, as added by this Act, and Sections 11.0851(a), 552.142, and 552.1425(a), Government Code, as amended by this Act, apply to convictions before, on, or after the effective date of this Act [June 17, 2011]."

Sec. 552.143. Confidentiality of Certain Investment Information.

(a) All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Section 552.0225(b) is confidential and excepted from the requirements of Section 552.021.

(b) Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of Section 552.021, except to the extent it is subject to disclosure under Subsection (c).

(c) All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)—(9), (11), or (13)—(16) is confidential and excepted from the requirements of Section 552.021. This subsection does not apply to a governmental body's purchase, holding, or disposal of restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This subsection applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Section 70, Article XVI, Texas Constitution, that is not listed in Section 552.0225(b).

(d) For the purposes of this chapter:

(1) "Private investment fund" means an entity, other than a governmental body, that issues restricted securities to a governmental body to evidence the investment of public funds for the purpose of reinvestment.

(2) "Reinvestment" means investment in a person that makes or will make other investments.

(3) "Restricted securities" has the meaning assigned by 17 C.F.R. Section 230.144(a)(3).

(e) [Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 17.05(1), effective September 28, 2011.]

(f) This section does not apply to the Texas Mutual Insurance Company or a successor to the company.

(Enacted by Acts 2005, 79th Leg., ch. 1338 (S.B. 121), § 2, effective June 18, 2005; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 17.05(1), effective September 28, 2011.)

Sec. 552.144. Exception: Working Papers and Electronic Communications of Administrative Law Judges at State Office of Administrative Hearings.

The following working papers and electronic communications of an administrative law judge at the State Office of Administrative Hearings are excepted from the requirements of Section 552.021:

(1) notes and electronic communications recording the observations, thoughts, questions, deliberations, or impressions of an administrative law judge;

(2) drafts of a proposal for decision;

(3) drafts of orders made in connection with conducting contested case hearings; and

(4) drafts of orders made in connection with conducting alternative dispute resolution procedures.

(Enacted by Acts 2003, 78th Leg., ch. 1215 (S.B. 1147), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(35), effective September 1, 2005 (renumbered from Sec. 552.141); am. Acts 2007, 80th Leg., ch. 350 (S.B. 178), § 1, effective June 15, 2007.)

Sec. 552.145. Exception: Confidentiality of Texas No-Call List.

The Texas no-call list created under Subchapter B, Chapter 304, Business & Commerce Code, and any information provided to or received from the administrator of the national do-not-call registry maintained by the United States government, as provided by Sections 304.051 and 304.056, Business & Commerce Code, are excepted from the requirements of Section 552.021.

(Enacted by Acts 2003, 78th Leg., ch. 401 (H.B. 149), § 2, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 171 (H.B. 210), § 2, effective May 27, 2005; am. Acts 2007, 80th Leg., ch. 885 (H.B. 2278), § 2.20, effective April 1, 2009; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 17.001(39), effective September 1, 2007 (renumbered from Sec. 552.141); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 32, effective September 1, 2011.)

Sec. 552.146. Exception: Certain Communications with Assistant or Employee of Legislative Budget Board.

(a) All written or otherwise recorded communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021.

(b) Memoranda of a communication between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021 without regard to the method used to store or maintain the memoranda.

(c) This section does not except from required disclosure a record or memoranda of a communication that occurs in public during an open meeting or public hearing conducted by the Legislative Budget Board.

(Enacted by Acts 2005, 79th Leg., ch. 741 (H.B. 2753), § 9, effective June 17, 2005.)

Sec. 552.147. Social Security Numbers.

(a) Except as provided by Subsection (a-1), the social security number of a living person is excepted from the requirements of Section 552.021, but is not confidential under this section and this section does not make the social security number of a living person confidential under another provision of this chapter or other law.

(a-1) The social security number of an employee of a school district in the custody of the district is confidential.

(b) A governmental body may redact the social security number of a living person from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c) Notwithstanding any other law, a county or district clerk may disclose in the ordinary course of business a social security number that is contained in information held by the clerk's office, and that disclosure is not official misconduct and does not subject the clerk to civil or criminal liability of any kind under the law of this state, including any claim for damages in a lawsuit or the criminal penalty imposed by Section 552.352.

(d) Unless another law requires a social security number to be maintained in a government document, on written request from an individual or the individual's representative the clerk shall redact within a reasonable amount of time all but the last four digits of the individual's social security number from information maintained in the clerk's official public records, including electronically stored information maintained by or under the control of the clerk. The individual or the individual's representative must identify, using a form provided by the clerk, the specific document or documents from which the partial social security number shall be redacted.

(Enacted by Acts 2005, 79th Leg., ch. 397 (S.B. 1485), § 1, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 3 (H.B. 2061), § 1, effective March 28, 2007; am. Acts 2013, 83rd Leg., ch. 183 (H.B. 2961), § 2, effective September 1, 2013.)

Sec. 552.148. Exception: Confidentiality of Certain Personal Information Maintained by Municipality Pertaining to a Minor.

(a) In this section, "minor" means a person younger than 18 years of age.

(b) The following information maintained by a municipality for purposes related to the participation by a minor in a recreational program or activity is excepted from the requirements of Section 552.021:

(1) the name, age, home address, home telephone number, or social security number of the minor;

(2) a photograph of the minor; and

(3) the name of the minor's parent or legal guardian.

(Enacted by Acts 2007, 80th Leg., ch. 114 (S.B. 123), § 1, effective May 17, 2007; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 33, effective September 1, 2011.)

Sec. 552.149. Exception: Confidentiality of Records of Comptroller or Appraisal District Received from Private Entity.

(a) Information relating to real property sales prices, descriptions, characteristics, and other related information received from a private entity by the comptroller or the chief appraiser of an appraisal district under Chapter 6, Tax Code, is excepted from the requirements of Section 552.021.

(b) Notwithstanding Subsection (a), the property owner or the owner's agent may, on request, obtain from the chief appraiser of the applicable appraisal district a copy of each item of information described by Section 41.461(a)(2), Tax Code, and a copy of each item of information that the chief appraiser took into consideration but does not plan to introduce at the hearing on the protest. In addition, the property owner or agent may, on request, obtain from the chief appraiser comparable sales data from a reasonable number of sales that is relevant to any matter to be determined by the appraisal review board at the hearing on the property owner's protest. Information obtained under this subsection:

(1) remains confidential in the possession of the property owner or agent; and

(2) may not be disclosed or used for any purpose except as evidence or argument at the hearing on the protest.

(c) Notwithstanding Subsection (a) or Section 403.304, so as to assist a property owner or an appraisal district in a protest filed under Section 403.303, the property owner, the district, or an agent of the property owner or district may, on request, obtain from the comptroller any information, including confidential information, obtained by the comptroller in connection with the comptroller's finding that is being protested. Confidential information obtained by a property owner, an appraisal district, or an agent of the property owner or district under this subsection:

(1) remains confidential in the possession of the property owner, district, or agent; and

(2) may not be disclosed to a person who is not authorized to receive or inspect the information.

(d) Notwithstanding Subsection (a) or Section 403.304, so as to assist a school district in the preparation of a protest filed or to be filed under Section 403.303, the school district or an agent of the school district may, on request, obtain from the comptroller or the appraisal district any information, including confidential information, obtained by the comptroller or the appraisal district that relates to the appraisal of property involved in the comptroller's finding that is being protested. Confidential information obtained by a school district or an agent of the school district under this subsection:

(1) remains confidential in the possession of the school district or agent; and

(2) may not be disclosed to a person who is not authorized to receive or inspect the information.

(e) This section applies to information described by Subsections (a), (c), and (d) and to an item of information or comparable sales data described by Subsection (b) only if the information, item of information, or comparable sales data relates to real property that is located in a county having a population of more than 50,000.

(Enacted by Acts 2007, 80th Leg., ch. 471 (H.B. 2188), § 1, effective June 16, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(39), effective September 1, 2009 (renumbered from Sec. 552.148); am. Acts 2009, 81st Leg., ch. 555 (S.B. 1813), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1153 (H.B. 2941), § 1, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 11.013, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1079 (S.B. 1130), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 34, effective September 1, 2011.)

Sec. 552.150. Exception: Confidentiality of Information That Could Compromise Safety of Officer or Employee of Hospital District.

(a) Information in the custody of a hospital district that relates to an employee or officer of the hospital district is excepted from the requirements of Section 552.021 if:

(1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual, such as information that describes or depicts the likeness of the individual, information stating the times that the individual arrives at or departs from work, a description of the individual's automobile, or the location where the individual works or parks; and

(2) the employee or officer applies in writing to the hospital district's officer for public information to have the information withheld from public disclosure under this section and includes in the application:

(A) a description of the information; and

(B) the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual.

(b) On receiving a written request for information described in an application submitted under Subsection (a)(2), the officer for public information shall:

(1) request a decision from the attorney general in accordance with Section 552.301 regarding withholding the information; and

(2) include a copy of the application submitted under Subsection (a)(2) with the request for the decision.

(c) [Repealed by Acts 2011, 82nd Leg., ch. 609 (S.B. 470), § 1, effective June 17, 2011.]

(Enacted by Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 609 (S.B. 470), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 35, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 14 provides: "The changes in law made by Section 552.150, Government Code, as added by this Act, apply in relation to a request for information made under Chapter 552, Government Code, before, on, or after the effective date of this Act [September 1, 2009]."

Sec. 552.151. Exception: Confidentiality of Information Regarding Select Agents.

(a) The following information that pertains to a biological agent or toxin identified or listed as a select agent under federal law, including under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. No. 107-188) and regulations adopted under that Act, is excepted from the requirements of Section 552.021:

(1) the specific location of a select agent within an approved facility;

(2) personal identifying information of an individual whose name appears in documentation relating to the chain of custody of select agents, including a materials transfer agreement; and

(3) the identity of an individual authorized to possess, use, or access a select agent.

(b) This section does not except from disclosure the identity of the select agents present at a facility.

(c) This section does not except from disclosure the identity of an individual faculty member or employee whose name appears or will appear on published research.

(d) This section does not except from disclosure otherwise public information relating to contracts of a governmental body.

(e) If a resident of another state is present in Texas and is authorized to possess, use, or access a select agent in conducting research or other work at a Texas facility, information relating to the identity of that individual is subject to disclosure under this chapter only to the extent the information would be subject to disclosure under the laws of the state of which the person is a resident.

(Enacted by Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 36, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 15 provides:

"Section 552.151, Government Code, as added by this Act, applies in relation to:

(1) a request for public information under Chapter 552, Government Code, made before, on, or after the effective date of this Act [September 1, 2009]; and

(2) information that on the effective date of this Act has not yet been disclosed that:

(A) was the subject of a request for information made before the effective date of this Act; and

(B) the attorney general determined before the effective date of this Act to be subject to disclosure under Chapter 552, Government Code."

Sec. 552.152. Exception: Confidentiality of Information Concerning Public Employee or Officer Personal Safety.

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

(Enacted by Acts 2009, 81st Leg., ch. 283 (S.B. 1068), § 4, effective June 4, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 27.001(20), effective September 1, 2011 (renumbered from Sec. 552.151); am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 37, effective September 1, 2011.)

Sec. 552.153. Proprietary Records and Trade Secrets Involved in Certain Partnerships.

(a) In this section, "affected jurisdiction," "comprehensive agreement," "contracting person," "interim agreement," "qualifying project," and "responsible governmental entity" have the meanings assigned those terms by Section 2267.001.

(b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:

(1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside

advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under Chapter 2267 for which:

(A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and

(B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity; or

(2) the records are provided by a proposer to a responsible governmental entity or affected jurisdiction under Chapter 2267 and contain:

(A) trade secrets of the proposer;

(B) financial records of the proposer, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or other means; or

(C) work product related to a competitive bid or proposal submitted by the proposer that, if made public before the execution of an interim or comprehensive agreement, would provide a competing proposer an unjust advantage or adversely affect the financial interest or bargaining position of the responsible governmental entity or the proposer.

(c) Except as specifically provided by Subsection (b), this section does not authorize the withholding of information concerning:

(1) the terms of any interim or comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the responsible governmental entity and the contracting person or the terms of any financing arrangement that involves the use of any public money; or

(2) the performance of any person developing or operating a qualifying project under Chapter 2267.

(d) In this section, "proposer" has the meaning assigned by Section 2267.001.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 4, effective June 14, 2013.)

Sec. 552.154. Exception: Name of Applicant for Executive Director, Chief Investment Officer, or Chief Audit Executive of Teacher Retirement System of Texas.

The name of an applicant for the position of executive director, chief investment officer, or chief audit executive of the Teacher Retirement System of Texas is excepted from the requirements of Section 552.021, except that the board of trustees of the Teacher Retirement System of Texas must give public notice of the names of three finalists being considered for one of those positions at least 21 days before the date of the meeting at which the final action or vote is to be taken on choosing a finalist for employment.

(Enacted by Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(22), effective September 1, 2013 (renumbered from Sec. 552.153).)

SUBCHAPTER D
OFFICER FOR PUBLIC INFORMATION

Sec. 552.201. Identity of Officer for Public Information.

(a) The chief administrative officer of a governmental body is the officer for public information, except as provided by Subsection (b).

(b) Each elected county officer is the officer for public information and the custodian, as defined by Section 201.003, Local Government Code, of the information created or received by that county officer's office.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.)

Sec. 552.202. Department Heads.

Each department head is an agent of the officer for public information for the purposes of complying with this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.)

Sec. 552.203. General Duties of Officer for Public Information.

Each officer for public information, subject to penalties provided in this chapter, shall:

(1) make public information available for public inspection and copying;

(2) carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal; and

(3) repair, renovate, or rebind public information as necessary to maintain it properly.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.)

Sec. 552.204. Scope of Responsibility of Officer for Public Information.

An officer for public information is responsible for the release of public information as required by this chapter. The officer is not responsible for:

(1) the use made of the information by the requestor; or

(2) the release of information after it is removed from a record as a result of an update, a correction, or a change of status of the person to whom the information pertains.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 14, effective September 1, 1995.)

Sec. 552.205. Informing Public of Basic Rights and Responsibilities Under This Chapter.

(a) An officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter. The officer shall display the sign at one or more places in the administrative offices of the governmental body where it is plainly visible to:

(1) members of the public who request public information in person under this chapter; and

(2) employees of the governmental body whose duties include receiving or responding to requests under this chapter.

(b) The attorney general by rule shall prescribe the content of the sign and the size, shape, and other physical characteristics of the sign. In prescribing the content of the sign, the attorney general shall include plainly written basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter that, in the opinion of the attorney general, is most useful for requestors to know and for employees of governmental bodies who receive or respond to requests for public information to know.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 11, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 3, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 3, effective September 1, 2005.)

SUBCHAPTER E
PROCEDURES RELATED TO ACCESS

Sec. 552.221. Application for Public Information; Production of Public Information.

(a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, "promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

(b) An officer for public information complies with Subsection (a) by:

(1) providing the public information for inspection or duplication in the offices of the governmental body; or

(2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F.

(c) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(d) If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 12, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 791 (S.B. 84), § 1, effective June 20, 2003.)

Sec. 552.222. Permissible Inquiry by Governmental Body to Requestor.

(a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b) or (c).

(b) If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used.

(c) If the information requested relates to a motor vehicle record, the officer for public information or

the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Chapter 730, Transportation Code. In this subsection, "motor vehicle record" has the meaning assigned that term by Section 730.003, Transportation Code.

(d) If by the 61st day after the date a governmental body sends a written request for clarification or discussion under Subsection (b) or an officer for public information or agent sends a written request for additional information under Subsection (c) the governmental body, officer for public information, or agent, as applicable, does not receive a written response from the requestor, the underlying request for public information is considered to have been withdrawn by the requestor.

(e) A written request for clarification or discussion under Subsection (b) or a written request for additional information under Subsection (c) must include a statement as to the consequences of the failure by the requestor to timely respond to the request for clarification, discussion, or additional information.

(f) If the requestor's request for public information included the requestor's physical or mailing address, the request may not be considered to have been withdrawn under Subsection (d) unless the governmental body, officer for public information, or agent, as applicable, sends the request for clarification or discussion under Subsection (b) or the written request for additional information under Subsection (c) to that address by certified mail.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1187 (S.B. 1069), § 5, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 296 (H.B. 1497), § 1, effective September 1, 2007.)

Sec. 552.223. Uniform Treatment of Requests for Information.

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.)

Sec. 552.224. Comfort and Facility.

The officer for public information or the officer's agent shall give to a requestor all reasonable comfort and facility for the full exercise of the right granted by this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.)

Sec. 552.225. Time for Examination.

(a) A requestor must complete the examination of the information not later than the 10th business day after the date the custodian of the information makes it available. If the requestor does not complete the examination of the information within 10 business days after the date the custodian of the information makes the information available and does not file a request for additional time under Subsection (b), the requestor is considered to have withdrawn the request.

(b) The officer for public information shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer for public information a written request for additional time. The officer for public information shall extend an additional examination period by another 10 business days if, within the additional period, the requestor files with the officer for public information a written request for more additional time.

(c) The time during which a person may examine information may be interrupted by the officer for public information if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 4, effective September 1, 2005.)

Sec. 552.226. Removal of Original Record.

This chapter does not authorize a requestor to remove an original copy of a public record from the office of a governmental body.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.)

Sec. 552.227. Research of State Library Holdings Not Required.

An officer for public information or the officer's agent is not required to perform general research within the reference and research archives and holdings of state libraries.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995.)

Sec. 552.228. Providing Suitable Copy of Public Information Within Reasonable Time.

(a) It shall be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

(b) If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:

(1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;

(2) the governmental body is not required to purchase any software or hardware to accommodate the request; and

(3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

(c) If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, the governmental body shall provide a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 962 (H.B. 3544), § 8, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 962 (H.B. 3544), § 9 provides: "The changes in law made to Section 552.228, Government Code, by this Act apply only to requests received by the agency on or after September 1, 2009. Requests received by the agency before the effective date of this Act [September 1, 2009] are governed by the former law, and that law is continued in effect for that purpose."

Sec. 552.229. Consent to Release Information Under Special Right of Access.

(a) Consent for the release of information excepted from disclosure to the general public but available to a specific person under Sections 552.023 and 552.307 must be in writing and signed by the specific person or the person's authorized representative.

(b) An individual under 18 years of age may consent to the release of information under this section only with the additional written authorization of the individual's parent or guardian.

(c) An individual who has been adjudicated incompetent to manage the individual's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this section only by the written authorization of the designated legal guardian or attorney ad litem.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.230. Rules of Procedure for Inspection and Copying of Public Information.

(a) A governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay.

(b) A rule promulgated under Subsection (a) may not be inconsistent with any provision of this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 3, effective September 1, 1997.)

Sec. 552.231. Responding to Requests for Information That Require Programming or Manipulation of Data.

(a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:

(1) that responding to a request for public information will require programming or manipulation of data; and

(2) that:

(A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or

(B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

(b) The written statement must include:

(1) a statement that the information is not available in the requested form;

(2) a description of the form in which the information is available;

(3) a description of any contract or services that would be required to provide the information in the requested form;

(4) a statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general under Section 552.262; and

(5) a statement of the anticipated time required to provide the information in the requested form.

(c) The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional 10 days to provide the statement if the governmental body gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.

(d) On providing the written statement to the requestor as required by this section, the governmental body does not have any further obligation to provide the information in the requested form or in the form in which it is available unless within 30 days the requestor states in writing to the governmental body that the requestor:

(1) wants the governmental body to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the governmental body agree; or

(2) wants the information in the form in which it is available.

(d-1) If a requestor does not make a timely written statement under Subsection (d), the requestor is considered to have withdrawn the request for information.

(e) The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under this section in a readily accessible location.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 15, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 5, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 4, effective September 1, 2005.)

Sec. 552.232. Responding to Repetitious or Redundant Requests.

(a) A governmental body that determines that a requestor has made a request for information for which the governmental body has previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F, shall respond to the request, in relation to the information for which copies have been already furnished or made available, in accordance with this section, except that:

(1) this section does not prohibit the governmental body from furnishing the information or making the information available to the requestor again in accordance with the request; and

(2) the governmental body is not required to comply with this section in relation to information that the governmental body simply furnishes or makes available to the requestor again in accordance with the request.

(b) The governmental body shall certify to the requestor that copies of all or part of the requested information, as applicable, were previously furnished to the requestor or made available to the requestor on payment of applicable charges under Subchapter F. The certification must include:

(1) a description of the information for which copies have been previously furnished or made available to the requestor;

(2) the date that the governmental body received the requestor's original request for that information;

(3) the date that the governmental body previously furnished copies of or made available copies of the information to the requestor;

(4) a certification that no subsequent additions, deletions, or corrections have been made to that information; and

(5) the name, title, and signature of the officer for public information or the officer's agent making the certification.

(c) A charge may not be imposed for making and furnishing a certification required under Subsection (b).

(d) This section does not apply to information for which the governmental body has not previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F. A request by the requestor for information for which copies have not previously been furnished or made available to the requestor, including information for which copies were not furnished or made available because the

information was redacted from other information that was furnished or made available or because the information did not yet exist at the time of an earlier request, shall be treated in the same manner as any other request for information under this chapter.
(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 13, effective September 1, 1999.)

SUBCHAPTER F
CHARGES FOR PROVIDING COPIES OF PUBLIC INFORMATION

Sec. 552.261. Charge for Providing Copies of Public Information.

(a) The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in:

(1) two or more separate buildings that are not physically connected with each other; or

(2) a remote storage facility.

(b) If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

(c) For purposes of Subsection (a), a connection of two buildings by a covered or open sidewalk, an elevated or underground passageway, or a similar facility is insufficient to cause the buildings to be considered separate buildings.

(d) Charges for providing a copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 16, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 14, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 864 (S.B. 653), § 1, effective September 1, 2003.)

Sec. 552.2611. Charges for Public Records by State Agency [Deleted].

Deleted by Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.
(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.04(a), effective September 1, 1995.)

Sec. 552.2615. Required Itemized Estimate of Charges.

(a) If a request for a copy of public information will result in the imposition of a charge under this subchapter that exceeds $40, or a request to inspect a paper record will result in the imposition of a charge under Section 552.271 that exceeds $40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. The governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request described by Subsection (a) is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 business days after the date the statement is sent to the requestor that:

(1) the requestor will accept the estimated charges;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

(c) If the governmental body later determines, but before it makes the copy or the paper record available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, the governmental body shall send to the requestor a written updated itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If the requestor does not respond in writing to the updated estimate in the time and manner described by Subsection (b), the request is considered to have been withdrawn by the requestor.

(d) If the actual charges that a governmental body imposes for a copy of public information, or for inspecting a paper record under Section 552.271, exceeds $40, the charges may not exceed:

(1) the amount estimated in the updated itemized statement; or

(2) if an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the itemized statement.

(e) An itemized statement or updated itemized statement is considered to have been sent by the governmental body to the requestor on the date that:

(1) the statement is delivered to the requestor in person;

(2) the governmental body deposits the properly addressed statement in the United States mail; or

(3) the governmental body transmits the properly addressed statement by electronic mail or facsimile transmission, if the requestor agrees to receive the statement by electronic mail or facsimile transmission, as applicable.

(f) A requestor is considered to have responded to the itemized statement or the updated itemized statement on the date that:

(1) the response is delivered to the governmental body in person;

(2) the requestor deposits the properly addressed response in the United States mail; or

(3) the requestor transmits the properly addressed response to the governmental body by electronic mail or facsimile transmission.

(g) The time deadlines imposed by this section do not affect the application of a time deadline imposed on a governmental body under Subchapter G.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 15, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 864 (S.B. 653), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 6, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 5, effective September 1, 2005.)

Sec. 552.262. Rules of the Attorney General.

(a) The attorney general shall adopt rules for use by each governmental body in determining charges for providing copies of public information under this subchapter and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection as authorized by Sections 552.271(c) and (d). The rules adopted by the attorney general shall be used by each governmental body in determining charges for providing copies of public information and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available for inspection. A governmental body, other than an agency of state government, may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection but may not charge an amount that is greater than 25 percent more than the amount established by the attorney general unless the governmental body requests an exemption under Subsection (c).

(b) The rules of the attorney general shall prescribe the methods for computing the charges for providing copies of public information in paper, electronic, and other kinds of media and the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The rules shall establish costs for various components of charges for providing copies of public information that shall be used by each governmental body in providing copies of public information or making public information that exists in a paper record available for inspection.

(c) A governmental body may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges for providing copies of public information or the charge, deposit, or bond required for making public informa-

tion that exists in a paper record available for inspection. The request must be made in writing to the attorney general and must state the reason for the exemption. If the attorney general determines that good cause exists for exempting a governmental body from a part or all of the rules, the attorney general shall give written notice of the determination to the governmental body within 90 days of the request. On receipt of the determination, the governmental body may amend its charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the determination of the attorney general.

(d) The attorney general shall publish annually in the Texas Register a list of the governmental bodies that have authorization from the attorney general to adopt any modified rules for determining the cost of providing copies of public information or making public information that exists in a paper record available for inspection.

(e) The rules of the attorney general do not apply to a state governmental body that is not a state agency for purposes of Subtitle D, Title 10.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 16, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 7, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 6, effective September 1, 2005.)

Sec. 552.263. Bond for Payment of Costs or Cash Prepayment for Preparation of Copy of Public Information.

(a) An officer for public information or the officer's agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

(1) the officer for public information or the officer's agent has provided the requestor with the written itemized statement required under Section 552.2615 detailing the estimated charge for providing the copy; and

(2) the charge for providing the copy of the public information specifically requested by the requestor is estimated by the governmental body to exceed:

(A) $100, if the governmental body has more than 15 full-time employees; or

(B) $50, if the governmental body has fewer than 16 full-time employees.

(b) The officer for public information or the officer's agent may not require a deposit or bond be paid under Subsection (a) as a down payment for copies of public information that the requestor may request in the future.

(c) An officer for public information or the officer's agent may require a deposit or bond for payment of unpaid amounts owing to the governmental body in relation to previous requests that the requestor has made under this chapter before preparing a copy of public information in response to a new request if those unpaid amounts exceed $100. The officer for public information or the officer's agent may not seek payment of those unpaid amounts through any other means.

(d) The governmental body must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs, as applicable, before requiring a deposit or bond under this section. The documentation is subject to required public disclosure under this chapter.

(e) For purposes of Subchapters F and G, a request for a copy of public information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs or unpaid amounts if the governmental body's officer for public information or the officer's agent requires a deposit or bond in accordance with this section.

(e-1) If a requestor modifies the request in response to the requirement of a deposit or bond authorized by this section, the modified request is considered a separate request for the purposes of this chapter and is considered received on the date the governmental body receives the written modified request.

(f) A requestor who fails to make a deposit or post a bond required under Subsection (a) before the 10th business day after the date the deposit or bond is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 17, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 315 (S.B. 623), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 349 (S.B. 175), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 6, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 38, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 40 provides: "The changes in law made by this Act to Sections 552.022, 552.263, and 552.301, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act [September 1, 2011]. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 552.264. Copy of Public Information Requested by Member of Legislature.

One copy of public information that is requested from a state agency by a member, agency, or committee of the legislature under Section 552.008 shall be provided without charge.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1585 (S.B. 1367), § 1, effective June 20, 1999.)

Sec. 552.265. Charge for Paper Copy Provided by District or County Clerk.

The charge for providing a paper copy made by a district or county clerk's office shall be the charge provided by Chapter 51 of this code, Chapter 118, Local Government Code, or other applicable law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1155 (H.B. 2873), § 1, effective June 15, 2001.)

Sec. 552.266. Charge for Copy of Public Information Provided by Municipal Court Clerk.

The charge for providing a copy made by a municipal court clerk shall be the charge provided by municipal ordinance.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.)

Sec. 552.2661. Charge for Copy of Public Information Provided by School District.

A school district that receives a request to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Section 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 20, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., 1st C.S., ch. 8 (S.B. 8), § 23 provides: "The changes in law made by this Act apply only to a hearing examiner's determination regarding good cause that is contained in a written recommendation under Section 21.257, Education Code, issued on or after the effective date of this Act [September 28, 2011]."

Sec. 552.267. Waiver or Reduction of Charge for Providing Copy of Public Information.

(a) A governmental body shall provide a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public.

(b) If the cost to a governmental body of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.)

Sec. 552.268. Efficient Use of Public Resources.

A governmental body shall make reasonably efficient use of supplies and other resources to avoid excessive reproduction costs.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.)

Sec. 552.269. Overcharge or Overpayment for Copy of Public Information.

(a) A person who believes the person has been overcharged for being provided with a copy of public information may complain to the attorney general in writing of the alleged overcharge, setting forth the reasons why the person believes the charges are excessive. The attorney general shall review the complaint and make a determination in writing as to the appropriate charge for providing the copy of the

requested information. The governmental body shall respond to the attorney general to any written questions asked of the governmental body by the attorney general regarding the charges for providing the copy of the public information. The response must be made to the attorney general within 10 business days after the date the questions are received by the governmental body. If the attorney general determines that a governmental body has overcharged for providing the copy of requested public information, the governmental body shall promptly adjust its charges in accordance with the determination of the attorney general.

(b) A person who overpays for a copy of public information because a governmental body refuses or fails to follow the rules for charges adopted by the attorney general is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the costs.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 864 (S.B. 653), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 8, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), § 7, effective September 1, 2005.)

Sec. 552.270. Charge for Government Publication.

(a) This subchapter does not apply to a publication that is compiled and printed by or for a governmental body for public dissemination. If the cost of the publication is not determined by state law, a governmental body may determine the charge for providing the publication.

(b) This section does not prohibit a governmental body from providing a publication free of charge if state law does not require that a certain charge be made.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.)

Sec. 552.271. Inspection of Public Information in Paper Record If Copy Not Requested.

(a) If the requestor does not request a copy of public information, a charge may not be imposed for making available for inspection any public information that exists in a paper record, except as provided by this section.

(b) If a requested page contains confidential information that must be edited from the record before the information can be made available for inspection, the governmental body may charge for the cost of making a photocopy of the page from which confidential information must be edited. No charge other than the cost of the photocopy may be imposed under this subsection.

(c) Except as provided by Subsection (d), an officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records only if:

(1) the public information specifically requested by the requestor:

(A) is older than five years; or

(B) completely fills, or when assembled will completely fill, six or more archival boxes; and

(2) the officer for public information or the officer's agent estimates that more than five hours will be required to make the public information available for inspection.

(d) If the governmental body has fewer than 16 full-time employees, the payment, the deposit, or the bond authorized by Subsection (c) may be required only if:

(1) the public information specifically requested by the requestor:

(A) is older than three years; or

(B) completely fills, or when assembled will completely fill, three or more archival boxes; and

(2) the officer for public information or the officer's agent estimates that more than two hours will be required to make the public information available for inspection.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 18, effective September 1, 1999.)

Sec. 552.272. Inspection of Electronic Record If Copy Not Requested.

(a) In response to a request to inspect information that exists in an electronic medium and that is not available directly on-line to the requestor, a charge may not be imposed for access to the information, unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the governmental body shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available. A charge under this section

must be assessed in accordance with this subchapter.

(b) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the government-owned or government-leased computer before the information is copied.

(c) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means and the information requires processing, programming, or manipulation before it can be electronically copied, a governmental body may impose charges in accordance with this subchapter.

(d) If information is created or kept in an electronic form, a governmental body is encouraged to explore options to separate out confidential information and to make public information available to the public through electronic access through a computer network or by other means.

(e) The provisions of this section that prohibit a governmental entity from imposing a charge for access to information that exists in an electronic medium do not apply to the collection of a fee set by the supreme court after consultation with the Judicial Committee on Information Technology as authorized by Section 77.031 for the use of a computerized electronic judicial information system.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1327 (S.B. 1417), § 5, effective September 1, 1997.)

Sec. 552.273. Interim Charges for Geographic Information Systems Data [Expired].

Expired pursuant to Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective August 31, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997.)

Sec. 552.274. Report by Attorney General on Cost of Copies.

(a) The attorney general shall:

(1) biennially update a report prepared by the attorney general about the charges made by state agencies for providing copies of public information; and

(2) provide a copy of the updated report on the attorney general's open records page on the Internet not later than March 1 of each even-numbered year.

(b) [Repealed by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(62), effective June 17, 2011.]

(c) In this section, "state agency" has the meaning assigned by Sections 2151.002(2)(A) and (C).

(Enacted by Acts 1995, 74th Leg., ch. 693 (H.B. 2891), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 17.19, effective September 1, 1997 (renumbered from Sec. 552.270); am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(47), effective September 1, 1997 (renumbered from Sec. 552.270); am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 19, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 9.008(a), effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 9, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 716 (S.B. 452), §§ 8, 9, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(62), effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 9.014, effective September 1, 2013.)

Sec. 552.275. Requests That Require Large Amounts of Employee or Personnel Time.

(a) A governmental body may establish a reasonable limit on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.

(b) A time limit established under Subsection (a) may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body.

(c) In determining whether a time limit established under Subsection (a) applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Section 101.003(a), Family Code, is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guard-

ian, or other person establishes that another person submitted that request in the name of the minor.

(d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection.

(e) If in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established by the governmental body under Subsection (a), the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general under Sections 552.262(a) and (b).

(f) If the governmental body determines that additional time is required to prepare the written estimate under Subsection (e) and provides the requestor with a written statement of that determination, the governmental body must provide the written statement under that subsection as soon as practicable, but on or before the 10th day after the date the governmental body provided the statement under this subsection.

(g) If a governmental body provides a requestor with the written statement under Subsection (e), the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written statement under that subsection, the requestor submits a statement in writing to the governmental body in which the requestor commits to pay the lesser of:

(1) the actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead; or

(2) the amount stated in the written statement provided under Subsection (e).

(h) If the requestor fails or refuses to submit the written statement under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.

(i) This section does not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate under Section 552.267 or from waiving a charge for providing a copy of public information under that section.

(j) This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

(1) a radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;

(2) a newspaper that is qualified under Section 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(3) a newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or

(4) a magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

(k) This section does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state.

(*l*) This section does not apply if the requestor is a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code. (Enacted by Acts 2007, 80th Leg., ch. 1398 (H.B. 2564), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1383 (S.B. 1629), § 1, effective September 1, 2009.)

SUBCHAPTER G
ATTORNEY GENERAL DECISIONS

Sec. 552.301. Request for Attorney General Decision.

(a) A governmental body that receives a written request for information that it wishes to withhold

from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.

(a-1) For the purposes of this subchapter, if a governmental body receives a written request by United States mail and cannot adequately establish the actual date on which the governmental body received the request, the written request is considered to have been received by the governmental body on the third business day after the date of the postmark on a properly addressed request.

(b) The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.

(c) For purposes of this subchapter, a written request includes a request made in writing that is sent to the officer for public information, or the person designated by that officer, by electronic mail or facsimile transmission.

(d) A governmental body that requests an attorney general decision under Subsection (a) must provide to the requestor within a reasonable time but not later than the 10th business day after the date of receiving the requestor's written request:

(1) a written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and

(2) a copy of the governmental body's written communication to the attorney general asking for the decision or, if the governmental body's written communication to the attorney general discloses the requested information, a redacted copy of that written communication.

(e) A governmental body that requests an attorney general decision under Subsection (a) must within a reasonable time but not later than the 15th business day after the date of receiving the written request:

(1) submit to the attorney general:

(A) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;

(B) a copy of the written request for information;

(C) a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date; and

(D) a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested; and

(2) label that copy of the specific information, or of the representative samples, to indicate which exceptions apply to which parts of the copy.

(e-1) A governmental body that submits written comments to the attorney general under Subsection (e)(1)(A) shall send a copy of those comments to the person who requested the information from the governmental body not later than the 15th business day after the date of receiving the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the person must be a redacted copy.

(f) A governmental body must release the requested information and is prohibited from asking for a decision from the attorney general about whether information requested under this chapter is within an exception under Subchapter C if:

(1) the governmental body has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request; and

(2) the attorney general or a court determined that the information is public information under this chapter that is not excepted by Subchapter C.

(g) A governmental body may ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general under this subchapter if:

(1) a suit challenging the prior decision was timely filed against the attorney general in accordance with this chapter concerning the precise information at issue;

(2) the attorney general determines that the requestor has voluntarily withdrawn the request for the information in writing or has abandoned the request; and

(3) the parties agree to dismiss the lawsuit.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 18, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1231 (H.B. 951), § 5, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 20, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 10, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 474 (H.B. 2248), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 8, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 39, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1229 (S.B. 602), § 40 provides: "The changes in law made by this Act to Sections 552.022, 552.263, and 552.301, Government Code, apply only to a request for information that is received by a governmental body or an officer for public information on or after the effective date of this Act [September 1, 2011]. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose."

Sec. 552.302. Failure to Make Timely Request for Attorney General Decision; Presumption That Information Is Public.

If a governmental body does not request an attorney general decision as provided by Section 552.301 and provide the requestor with the information required by Sections 552.301(d) and (e-1), the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 21, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 11, effective September 1, 2005.)

Sec. 552.303. Delivery of Requested Information to Attorney General; Disclosure of Requested Information; Attorney General Request for Submission of Additional Information.

(a) A governmental body that requests an attorney general decision under this subchapter shall supply to the attorney general, in accordance with Section 552.301, the specific information requested. Unless the information requested is confidential by law, the governmental body may disclose the requested information to the public or to the requestor before the attorney general makes a final determination that the requested information is public or, if suit is filed under this chapter, before a final determination that the requested information is public has been made by the court with jurisdiction over the suit, except as otherwise provided by Section 552.322.

(b) The attorney general may determine whether a governmental body's submission of information to the attorney general under Section 552.301 is sufficient to render a decision.

(c) If the attorney general determines that information in addition to that required by Section 552.301 is necessary to render a decision, the attorney general shall give written notice of that fact to the governmental body and the requestor.

(d) A governmental body notified under Subsection (c) shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received.

(e) If a governmental body does not comply with Subsection (d), the information that is the subject of a person's request to the governmental body and regarding which the governmental body fails to comply with Subsection (d) is presumed to be subject to required public disclosure and must be released unless there exists a compelling reason to withhold the information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 19, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 22, effective September 1, 1999.)

Sec. 552.3035. Disclosure of Requested Information by Attorney General.

The attorney general may not disclose to the requestor or the public any information submitted to the attorney general under Section 552.301(e)(1)(D).

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 23, effective September 1, 1999.)

Sec. 552.304. Submission of Public Comments.

(a) A person may submit written comments stating reasons why the information at issue in a request for an attorney general decision should or should not be released.

(b) A person who submits written comments to the attorney general under Subsection (a) shall send a copy of those comments to both the person who requested the information from the governmental body and the governmental body. If the written comments submitted to the attorney general disclose or contain the substance of the information requested from the governmental body, the copy of the comments sent to the person who requested the information must be a redacted copy.

(c) In this section, "written comments" includes a letter, a memorandum, or a brief.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 20, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 329 (S.B. 727), § 12, effective September 1, 2005.)

Sec. 552.305. Information Involving Privacy or Property Interests of Third Party.

(a) In a case in which information is requested under this chapter and a person's privacy or property interests may be involved, including a case

under Section 552.101, 552.104, 552.110, or 552.114, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

(b) A person whose interests may be involved under Subsection (a), or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released.

(c) The governmental body may, but is not required to, submit its reasons why the information should be withheld or released.

(d) If release of a person's proprietary information may be subject to exception under Section 552.101, 552.110, 552.113, or 552.131, the governmental body that requests an attorney general decision under Section 552.301 shall make a good faith attempt to notify that person of the request for the attorney general decision. Notice under this subsection must:

(1) be in writing and sent within a reasonable time not later than the 10th business day after the date the governmental body receives the request for the information; and

(2) include:

(A) a copy of the written request for the information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

(e) A person who submits a letter, memorandum, or brief to the attorney general under Subsection (d) shall send a copy of that letter, memorandum, or brief to the person who requested the information from the governmental body. If the letter, memorandum, or brief submitted to the attorney general contains the substance of the information requested, the copy of the letter, memorandum, or brief may be a redacted copy.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 21, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 24, effective September 1, 1999.)

Sec. 552.306. Rendition of Attorney General Decision; Issuance of Written Opinion.

(a) Except as provided by Section 552.011, the attorney general shall promptly render a decision requested under this subchapter, consistent with the standards of due process, determining whether the requested information is within one of the exceptions of Subchapter C. The attorney general shall render the decision not later than the 45th business day after the date the attorney general received the request for a decision. If the attorney general is unable to issue the decision within the 45-day period, the attorney general may extend the period for issuing the decision by an additional 10 business days by informing the governmental body and the requestor, during the original 45-day period, of the reason for the delay.

(b) The attorney general shall issue a written opinion of the determination and shall provide a copy of the opinion to the requestor.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 22, effective January 1, 1996; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 25, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 349 (S.B. 175), § 2, effective June 15, 2007.)

Sec. 552.307. Special Right of Access; Attorney General Decisions.

(a) If a governmental body determines that information subject to a special right of access under Section 552.023 is exempt from disclosure under an exception of Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, the governmental body shall, before disclosing the information, submit a written request for a decision to the attorney general under the procedures of this subchapter.

(b) If a decision is not requested under Subsection (a), the governmental body shall release the information to the person with a special right of access under Section 552.023 not later than the 10th business day after the date of receiving the request for information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 349 (S.B. 175), § 3, effective June 15, 2007.)

Sec. 552.308. Timeliness of Action by United States Mail, Interagency Mail, or Common or Contract Carrier.

(a) When this subchapter requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class United

States mail or common or contract carrier properly addressed with postage or handling charges prepaid and:

(1) it bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within that period; or

(2) the person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period.

(b) When this subchapter requires an agency of this state to submit or otherwise give to the attorney general within a specified period a request, notice, or other writing, the requirement is met in a timely fashion if:

(1) the request, notice, or other writing is sent to the attorney general by interagency mail; and

(2) the agency provides evidence sufficient to establish that the request, notice, or other writing was deposited in the interagency mail within that period.

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 23, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 26, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 909 (S.B. 919), §§ 1, 2, effective June 20, 2003.)

Sec. 552.309. Timeliness of Action by Electronic Submission.

(a) When this subchapter requires a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the document is submitted to the attorney general through the attorney general's designated electronic filing system within that period.

(b) The attorney general may electronically transmit a notice, decision, or other document. When this subchapter requires the attorney general to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the document is electronically transmitted by the attorney general within that period.

(c) This section does not affect the right of a person or governmental body to submit information to the attorney general under Section 552.308.

(Enacted by Acts 2011, 82nd Leg., ch. 552 (H.B. 2866), § 2, effective June 17, 2011.)

SUBCHAPTER H
CIVIL ENFORCEMENT

Sec. 552.321. Suit for Writ of Mandamus.

(a) A requestor or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general's decision as provided by Subchapter G or refuses to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C.

(b) A suit filed by a requestor under this section must be filed in a district court for the county in which the main offices of the governmental body are located. A suit filed by the attorney general under this section must be filed in a district court of Travis County, except that a suit against a municipality with a population of 100,000 or less must be filed in a district court for the county in which the main offices of the municipality are located.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 24, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 27, effective September 1, 1999.)

Sec. 552.3215. Declaratory Judgment or Injunctive Relief.

(a) In this section:

(1) "Complainant" means a person who claims to be the victim of a violation of this chapter.

(2) "State agency" means a board, commission, department, office, or other agency that:

(A) is in the executive branch of state government;

(B) was created by the constitution or a statute of this state; and

(C) has statewide jurisdiction.

(b) An action for a declaratory judgment or injunctive relief may be brought in accordance with this section against a governmental body that violates this chapter.

(c) The district or county attorney for the county in which a governmental body other than a state agency is located or the attorney general may bring the action in the name of the state only in a district court for that county. If the governmental body extends into more than one county, the action may be brought only in the county in which the administrative offices of the governmental body are located.

(d) If the governmental body is a state agency, the Travis County district attorney or the attorney general may bring the action in the name of the state only in a district court of Travis County.

(e) A complainant may file a complaint alleging a violation of this chapter. The complaint must be filed with the district or county attorney of the county in which the governmental body is located unless the governmental body is the district or county attorney.

If the governmental body extends into more than one county, the complaint must be filed with the district or county attorney of the county in which the administrative offices of the governmental body are located. If the governmental body is a state agency, the complaint may be filed with the Travis County district attorney. If the governmental body is the district or county attorney, the complaint must be filed with the attorney general. To be valid, a complaint must:

(1) be in writing and signed by the complainant;

(2) state the name of the governmental body that allegedly committed the violation, as accurately as can be done by the complainant;

(3) state the time and place of the alleged commission of the violation, as definitely as can be done by the complainant; and

(4) in general terms, describe the violation.

(f) A district or county attorney with whom the complaint is filed shall indicate on the face of the written complaint the date the complaint is filed.

(g) Before the 31st day after the date a complaint is filed under Subsection (e), the district or county attorney shall:

(1) determine whether:

(A) the violation alleged in the complaint was committed; and

(B) an action will be brought against the governmental body under this section; and

(2) notify the complainant in writing of those determinations.

(h) Notwithstanding Subsection (g)(1), if the district or county attorney believes that that official has a conflict of interest that would preclude that official from bringing an action under this section against the governmental body complained of, before the 31st day after the date the complaint was filed the county or district attorney shall inform the complainant of that official's belief and of the complainant's right to file the complaint with the attorney general. If the district or county attorney determines not to bring an action under this section, the district or county attorney shall:

(1) include a statement of the basis for that determination; and

(2) return the complaint to the complainant.

(i) If the district or county attorney determines not to bring an action under this section, the complainant is entitled to file the complaint with the attorney general before the 31st day after the date the complaint is returned to the complainant. On receipt of the written complaint, the attorney general shall comply with each requirement in Subsections (g) and (h) in the time required by those subsections. If the attorney general decides to bring an action under this section against a governmental body located only in one county in response to the complaint, the attorney general must comply with Subsection (c).

(j) An action may be brought under this section only if the official proposing to bring the action notifies the governmental body in writing of the official's determination that the alleged violation was committed and the governmental body does not cure the violation before the fourth day after the date the governmental body receives the notice.

(k) An action authorized by this section is in addition to any other civil, administrative, or criminal action provided by this chapter or another law. (Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 28, effective September 1, 1999.)

Sec. 552.322. Discovery of Information Under Protective Order Pending Final Determination.

In a suit filed under this chapter, the court may order that the information at issue may be discovered only under a protective order until a final determination is made.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 552.3221. In Camera Inspection of Information.

(a) In any suit filed under this chapter, the information at issue may be filed with the court for in camera inspection as is necessary for the adjudication of the case.

(b) Upon receipt of the information at issue for in camera inspection, the court shall enter an order that prevents release to or access by any person other than the court, a reviewing court of appeals, or parties permitted to inspect the information pursuant to a protective order. The order shall further note the filing date and time.

(c) The information at issue filed with the court for in camera inspection shall be:

(1) appended to the order and transmitted by the court to the clerk for filing as "information at issue";

(2) maintained in a sealed envelope or in a manner that precludes disclosure of the information; and

(3) transmitted by the clerk to any court of appeal as part of the clerk's record.

(d) Information filed with the court under this section does not constitute "court records" within the meaning of Rule 76a, Texas Rules of Civil Procedure, and shall not be made available by the clerk or any custodian of record for public inspection.

(e) For purposes of this section, "information at issue" is defined as information held by a governmental body that forms the basis of a suit under this chapter.

(Enacted by Acts 2013, 83rd Leg., ch. 461 (S.B. 983), § 1, effective September 1, 2013.)

Sec. 552.323. Assessment of Costs of Litigation and Reasonable Attorney Fees.

(a) In an action brought under Section 552.321 or 552.3215, the court shall assess costs of litigation and reasonable attorney fees incurred by a plaintiff who substantially prevails, except that the court may not assess those costs and fees against a governmental body if the court finds that the governmental body acted in reasonable reliance on:

(1) a judgment or an order of a court applicable to the governmental body;

(2) the published opinion of an appellate court; or

(3) a written decision of the attorney general, including a decision issued under Subchapter G or an opinion issued under Section 402.042.

(b) In an action brought under Section 552.324, the court may assess costs of litigation and reasonable attorney's fees incurred by a plaintiff or defendant who substantially prevails. In exercising its discretion under this subsection, the court shall consider whether the conduct of the governmental body had a reasonable basis in law and whether the litigation was brought in good faith.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 29, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 9, effective September 1, 2009.)

Sec. 552.324. Suit by Governmental Body.

(a) The only suit a governmental body may file seeking to withhold information from a requestor is a suit that:

(1) is filed in a Travis County district court against the attorney general in accordance with Section 552.325; and

(2) seeks declaratory relief from compliance with a decision by the attorney general issued under Subchapter G.

(b) The governmental body must bring the suit not later than the 30th calendar day after the date the governmental body receives the decision of the attorney general determining that the requested information must be disclosed to the requestor. If the governmental body does not bring suit within that period, the governmental body shall comply with the decision of the attorney general. If a governmental body wishes to preserve an affirmative defense for its officer for public information as provided in Section 552.353(b)(3), suit must be filed within the deadline provided in Section 552.353(b)(3).

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 24, effective September 1, 1995; am Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 30, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 10, effective September 1, 2009.)

Sec. 552.325. Parties to Suit Seeking to Withhold Information.

(a) A governmental body, officer for public information, or other person or entity that files a suit seeking to withhold information from a requestor may not file suit against the person requesting the information. The requestor is entitled to intervene in the suit.

(b) The governmental body, officer for public information, or other person or entity that files the suit shall demonstrate to the court that the governmental body, officer for public information, or other person or entity made a timely good faith effort to inform the requestor, by certified mail or by another written method of notice that requires the return of a receipt, of:

(1) the existence of the suit, including the subject matter and cause number of the suit and the court in which the suit is filed;

(2) the requestor's right to intervene in the suit or to choose to not participate in the suit;

(3) the fact that the suit is against the attorney general in Travis County district court; and

(4) the address and phone number of the office of the attorney general.

(c) If the attorney general enters into a proposed settlement that all or part of the information that is the subject of the suit should be withheld, the attorney general shall notify the requestor of that decision and, if the requestor has not intervened in the suit, of the requestor's right to intervene to contest the withholding. The attorney general shall notify the requestor:

(1) in the manner required by the Texas Rules of Civil Procedure, if the requestor has intervened in the suit; or

(2) by certified mail or by another written method of notice that requires the return of a receipt, if the requestor has not intervened in the suit.

(d) The court shall allow the requestor a reasonable period to intervene after the attorney general attempts to give notice under Subsection (c)(2).

(Enacted by Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 24, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 11, effective September 1, 2009.)

Sec. 552.326. Failure to Raise Exceptions Before Attorney General.

(a) Except as provided by Subsection (b), the only exceptions to required disclosure within Subchapter C that a governmental body may raise in a suit filed under this chapter are exceptions that the governmental body properly raised before the attorney general in connection with its request for a decision regarding the matter under Subchapter G.

(b) Subsection (a) does not prohibit a governmental body from raising an exception:

(1) based on a requirement of federal law; or

(2) involving the property or privacy interests of another person.

(Enacted by Acts 1999, 76th Leg., ch. 1319 (S.B. 1851), § 31, effective September 1, 1999.)

Sec. 552.327. Dismissal of Suit Due to Requestor's Withdrawal or Abandonment of Request.

A court may dismiss a suit challenging a decision of the attorney general brought in accordance with this chapter if:

(1) all parties to the suit agree to the dismissal; and

(2) the attorney general determines and represents to the court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request.

(Enacted by Acts 2007, 80th Leg., ch. 474 (H.B. 2248), § 2, effective September 1, 2007.)

SUBCHAPTER I
CRIMINAL VIOLATIONS

Sec. 552.351. Destruction, Removal, or Alteration of Public Information.

(a) A person commits an offense if the person wilfully destroys, mutilates, removes without permission as provided by this chapter, or alters public information.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $25 or more than $4,000;

(2) confinement in the county jail for not less than three days or more than three months; or

(3) both the fine and confinement.

(c) It is an exception to the application of Subsection (a) that the public information was transferred under Section 441.204.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 25, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 771 (S.B. 1800), § 2, effective June 13, 2001.)

Sec. 552.352. Distribution or Misuse of Confidential Information.

(a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(a-1) An officer or employee of a governmental body who obtains access to confidential information under Section 552.008 commits an offense if the officer or employee knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(a-2) For purposes of Subsection (a-1), a member of an advisory committee to a governmental body who obtains access to confidential information in that capacity is considered to be an officer or employee of the governmental body.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(c) A violation under this section constitutes official misconduct.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 249 (H.B. 1606), §§ 7.01, 7.02, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1089 (H.B. 2032), § 2, effective September 1, 2003.)

Sec. 552.353. Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information.

(a) An officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide

copying of, public information to a requestor as provided by this chapter.

(b) It is an affirmative defense to prosecution under Subsection (a) that the officer for public information reasonably believed that public access to the requested information was not required and that:

(1) the officer acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record or of the attorney general issued under Subchapter G;

(2) the officer requested a decision from the attorney general in accordance with Subchapter G, and the decision is pending; or

(3) not later than the 10th calendar day after the date of receipt of a decision by the attorney general that the information is public, the officer or the governmental body for whom the defendant is the officer for public information filed a petition for a declaratory judgment against the attorney general in a Travis County district court seeking relief from compliance with the decision of the attorney general, as provided by Section 552.324, and the cause is pending.

(c) It is an affirmative defense to prosecution under Subsection (a) that a person or entity has, not later than the 10th calendar day after the date of receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, as provided by Section 552.325, and the cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (a) that the defendant is the agent of an officer for public information and that the agent reasonably relied on the written instruction of the officer for public information not to disclose the public information requested.

(e) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than $1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(f) A violation under this section constitutes official misconduct.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1035 (H.B. 1718), § 25, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1377 (S.B. 1182), § 12, effective September 1, 2009.)

CHAPTER 553
PUBLIC DISCLOSURE

Subchapter A. Disclosure by Public Servant of Interest in Property to Be Acquired with Public Funds

Subchapter B. Failure by Public Officer to Publish Legal Notice or Financial Statement

SUBCHAPTER A
DISCLOSURE BY PUBLIC SERVANT OF INTEREST IN PROPERTY TO BE ACQUIRED WITH PUBLIC FUNDS

Sec. 553.001. Definitions.

In this subchapter:

(1) "Public funds" includes only funds collected by or through a government.

(2) "Public servant" means a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

(A) a candidate for nomination or election to public office; or

(B) an officer of government.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 553.002. Disclosure of Interest in Property.

(a) A public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

(b) The affidavit must:

(1) state the name of the public servant;

(2) state the public servant's office, public title, or job designation;

(3) fully describe the property;

(4) fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;

(5) state the date when the person acquired an interest in the property;

(6) include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and

(7) contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

(c) The affidavit must be filed with:

(1) the county clerk of the county in which the public servant resides; and

(2) the county clerk of each county in which the property is located.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 553.003. Criminal Penalty; Presumption.

(a) A person commits an offense if the person violates Section 553.002 and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property.

(b) A person who violates Section 553.002 by not filing the affidavit required by that section is presumed to have the intent to commit an offense under this section.

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

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER B
FAILURE BY PUBLIC OFFICER TO PUBLISH LEGAL NOTICE OR FINANCIAL STATEMENT

Sec. 553.021. Definition.

In this subchapter, "public officer" means an officer of the state or of a county, municipality, or school district of the state.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 553.022. Failure to Publish Legal Notice or Financial Statement; Civil Penalty.

(a) A public officer who is required by law to publish a legal notice or financial statement commits nonfeasance of office if the officer fails to make the publication.

(b) A public officer who commits nonfeasance of office:

(1) is subject to forfeiture of salary for the month in which the notice or statement is not published; and

(2) may be removed from office if the officer wilfully continues to commit nonfeasance of office under Subsection (a).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 553.023. Enforcement.

(a) The county or district attorney of the county in which a public officer who commits nonfeasance of office under Section 553.022 resides may file an action to enjoin or recover payment of salary or to remove the person from office.

(b) An action under this section must be filed in the appropriate district court.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

CHAPTER 554
PROTECTION FOR REPORTING VIOLATIONS OF LAW

Section

Sec. 554.001. Definitions.

In this chapter:

(1) "Law" means:

(A) a state or federal statute;

(B) an ordinance of a local governmental entity; or

(C) a rule adopted under a statute or ordinance.

(2) "Local governmental entity" means a political subdivision of the state, including a:

(A) county;

(B) municipality;

(C) public school district; or

(D) special-purpose district or authority.

(3) "Personnel action" means an action that affects a public employee's compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

(4) "Public employee" means an employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity.

(5) "State governmental entity" means:

(A) a board, commission, department, office, or other agency in the executive branch of state government, created under the constitution or a statute of the state, including an institution of higher education, as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Texas Supreme Court, the Texas Court of Criminal Appeals, a court of appeals, a state judicial agency, or the State Bar of Texas.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 1, effective June 15, 1995.)

Sec. 554.002. Retaliation Prohibited for Reporting Violation of Law.

(a) A state or local governmental entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

(b) In this section, a report is made to an appropriate law enforcement authority if the authority is a part of a state or local governmental entity or of the federal government that the employee in good faith believes is authorized to:

(1) regulate under or enforce the law alleged to be violated in the report; or

(2) investigate or prosecute a violation of criminal law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 2, effective June 15, 1995.)

Sec. 554.003. Relief Available to Public Employee.

(a) A public employee whose employment is suspended or terminated or who is subjected to an adverse personnel action in violation of Section 554.002 is entitled to sue for:

(1) injunctive relief;

(2) actual damages;

(3) court costs; and

(4) reasonable attorney fees.

(b) In addition to relief under Subsection (a), a public employee whose employment is suspended or terminated in violation of this chapter is entitled to:

(1) reinstatement to the employee's former position or an equivalent position;

(2) compensation for wages lost during the period of suspension or termination; and

(3) reinstatement of fringe benefits and seniority rights lost because of the suspension or termination.

(c) In a suit under this chapter against an employing state or local governmental entity, a public employee may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:

(1) $50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(2) $100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(3) $200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and

(4) $250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(d) If more than one subdivision of Subsection (c) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this chapter is governed by the applicable provision that provides the highest damage award.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 3, effective June 15, 1995.)

Sec. 554.0035. Waiver of Immunity.

A public employee who alleges a violation of this chapter may sue the employing state or local governmental entity for the relief provided by this chapter. Sovereign immunity is waived and abolished to the extent of liability for the relief allowed under this chapter for a violation of this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 4, effective June 15, 1995.)

Sec. 554.004. Burden of Proof; Presumption; Affirmative Defense.

(a) A public employee who sues under this chapter has the burden of proof, except that if the suspension or termination of, or adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports a violation of law, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.

(b) It is an affirmative defense to a suit under this chapter that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under this chapter of a violation of law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 5, effective June 15, 1995.)

Sec. 554.005. Limitation Period.

Except as provided by Section 554.006, a public employee who seeks relief under this chapter must sue not later than the 90th day after the date on which the alleged violation of this chapter:

(1) occurred; or

(2) was discovered by the employee through reasonable diligence.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 554.006. Use of Grievance or Appeal Procedures.

(a) A public employee must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under this chapter.

(b) The employee must invoke the applicable grievance or appeal procedures not later than the 90th day after the date on which the alleged violation of this chapter:

(1) occurred; or

(2) was discovered by the employee through reasonable diligence.

(c) Time used by the employee in acting under the grievance or appeal procedures is excluded, except as provided by Subsection (d), from the period established by Section 554.005.

(d) If a final decision is not rendered before the 61st day after the date procedures are initiated under Subsection (a), the employee may elect to:

(1) exhaust the applicable procedures under Subsection (a), in which event the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under this chapter; or

(2) terminate procedures under Subsection (a), in which event the employee must sue within the time remaining under Section 554.005 to obtain relief under this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 6, effective June 15, 1995.)

Sec. 554.007. Where Suit Brought.

(a) A public employee of a state governmental entity may sue under this chapter in a district court of the county in which the cause of action arises or in a district court of Travis County.

(b) A public employee of a local governmental entity may sue under this chapter in a district court of the county in which the cause of action arises or in a district court of any county in the same geographic area that has established with the county in which the cause of action arises a council of governments or other regional commission under Chapter 391, Local Government Code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 7, effective June 15, 1995.)

Sec. 554.008. Civil Penalty.

(a) A supervisor who in violation of this chapter suspends or terminates the employment of a public employee or takes an adverse personnel action against the employee is liable for a civil penalty not to exceed $15,000.

(b) The attorney general or appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(c) A civil penalty collected under this section shall be deposited in the state treasury.

(d) A civil penalty assessed under this section shall be paid by the supervisor and may not be paid by the employing governmental entity.

(e) The personal liability of a supervisor or other individual under this chapter is limited to the civil penalty that may be assessed under this section.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 8, effective June 15, 1995.)

Sec. 554.009. Notice to Employees.

(a) A state or local governmental entity shall inform its employees of their rights under this

chapter by posting a sign in a prominent location in the workplace.

(b) The attorney general shall prescribe the design and content of the sign required by this section.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 9, effective June 15, 1995.)

Sec. 554.010. Audit of State Governmental Entity After Suit.

(a) At the conclusion of a suit that is brought under this chapter against a state governmental entity subject to audit under Section 321.013 and in which the entity is required to pay $10,000 or more under the terms of a settlement agreement or final judgment, the attorney general shall provide to the state auditor's office a brief memorandum describing the facts and disposition of the suit.

(b) Not later than the 90th day after the date on which the state auditor's office receives the memorandum required by Subsection (a), the auditor may audit or investigate the state governmental entity to determine any changes necessary to correct the problems that gave rise to the whistleblower suit and shall recommend such changes to the Legislative Audit Committee, the Legislative Budget Board, and the governing board or chief executive officer of the entity involved. In conducting the audit or investigation, the auditor shall have access to all records pertaining to the suit.
(Enacted by Acts 1995, 74th Leg., ch. 721 (H.B. 175), § 10, effective June 15, 1995.)

CHAPTER 556
POLITICAL ACTIVITIES BY CERTAIN PUBLIC ENTITIES AND INDIVIDUALS

Section

Sec. 556.001. Definitions.

In this chapter:

(1) "Appropriated money" means money appropriated by the legislature through the General Appropriations Act or other law.

(2) "State agency" means:

(A) a department, commission, board, office, or other agency in the executive branch of state government, created under the constitution or a statute, with statewide authority;

(B) a university system or an institution of higher education as defined by Section 61.003, Education Code; or

(C) the supreme court, the court of criminal appeals, another entity in the judicial branch of state government with statewide authority, or a court of appeals.

(3) "State employee" means an individual who is employed by a state agency. The term does not include an elected official or an individual appointed to office by the governor or another officer.

(4) "State officer" means an individual appointed to office by the governor or another officer.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.002. Application to Certain Entities and Individuals.

(a) This chapter applies to the use of appropriated money by the following public entities and their officers and employees as if the entities were state agencies and their officers and employees were state employees:

(1) a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code;

(2) a local workforce development board created under Subchapter F, Chapter 2308; and

(3) a community center created under Subchapter A, Chapter 534, Health and Safety Code.

(b) This chapter does not prohibit the payment of reasonable dues to an organization that represents student interests before the legislature or the Congress of the United States from that portion of mandatory student service fees that is allocated to the student government organization at an institution of higher education. A mandatory student service fee may not be used to influence the outcome of an election.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 85, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.003. State Employees' Rights.

A state employee has the rights of freedom of association and political participation guaranteed by the state and federal constitutions except as provided by Section 556.004.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.004. Prohibited Acts of Agencies and Individuals.

(a) A state agency may not use any money under its control, including appropriated money, to finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government or of the government of the United States. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection.

(b) A state officer or employee may not use a state-owned or state-leased motor vehicle for a purpose described by Subsection (a).

(c) A state officer or employee may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.

(d) A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of any thing of value to a person or political organization for a political purpose.

(e) For purposes of Subsection (c), a state officer or employee does not interfere with or affect the results of an election or nomination if the individual's conduct is permitted by a law relating to the individual's office or employment and is not otherwise unlawful.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.005. Employment of Lobbyist.

(a) A state agency may not use appropriated money to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 to register as a lobbyist. Except for an institution of higher education as defined by Section 61.003, Education Code, a state agency may not use any money under its control to employ or contract with an individual who is required by Chapter 305 to register as a lobbyist.

(b) A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist. This subsection does not apply to the payment by a state agency of membership fees under Chapter 81.

(c) A state agency that violates Subsection (a) is subject to a reduction of amounts appropriated for administration by the General Appropriations Act for the biennium following the biennium in which the violation occurs in an amount not to exceed $100,000 for each violation.

(d) A state agency administering a statewide retirement plan may enter into a contract to receive assistance or advice regarding the qualified tax status of the plan or on other federal matters affecting the administration of the state agency or its programs if the contractor is not required by Chapter 305 to register as a lobbyist.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 249 (H.B. 1606), § 4.11, effective September 1, 2003.)

Sec. 556.0055. Restrictions on Lobbying Expenditures.

(a) A political subdivision or private entity that receives state funds may not use the funds to pay:

(1) lobbying expenses incurred by the recipient of the funds;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) A political subdivision or private entity that violates Subsection (a) is not eligible to receive additional state funds.

(Enacted by Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.006. Legislative Lobbying.

(a) A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure.

(b) This section does not prohibit a state officer or employee from using state resources to provide public information or to provide information responsive to a request.

(Enacted by Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 86, effective June 19, 1997; am. Acts 1999,

76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.007. Termination of Employment.

A state employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing information under Section 556.006(b) or who violates Section 556.004(c) or (d) is subject to immediate termination of employment.
(Enacted by Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.008. Compensation Prohibition.

A state agency may not use appropriated money to compensate a state officer or employee who violates Section 556.004(a), (b), or (c) or Section 556.005 or 556.006(a), or who is subject to termination under Section 556.007.
(Enacted by Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

Sec. 556.009. Notice of Prohibitions.

(a) A state agency shall provide each officer and employee of the agency a copy of Sections 556.004, 556.005, 556.006, 556.007, and 556.008 and require a signed receipt on delivery. A new copy and receipt are required if one of those provisions is changed.

(b) A state agency shall maintain receipts collected from current officers and employees under this section in a manner accessible for public inspection.
(Enacted by Acts 1999, 76th Leg., ch. 1498 (S.B. 177), § 1, effective September 1, 1999.)

CHAPTER 558
INTERPRETERS FOR DEAF OR HEARING IMPAIRED PERSONS

Section

Sec. 558.001. Definition.

In this chapter, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits:

(1) comprehension of an examination or proceeding; or

(2) communication with others.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 558.002. State Examinations.

(a) A deaf or hearing impaired person taking a state examination required for state employment or issuance of a state license is entitled, on request, to an interpreter.

(b) The interpreter may be paid for not more than eight hours for interpreting in a calendar day and is entitled to $5 for each hour of interpreting in a calendar day, except that the interpreter is entitled to $15 for the first hour.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 558.003. Proceedings Before Political Subdivisions.

(a) In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Commission for the Deaf and Hard of Hearing.

(b) In this section, "political subdivision" means a county, municipality, school district, special purpose district, or other subdivision of state government that has jurisdiction limited to a geographic portion of the state.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 835 (H.B. 2859), § 17, effective September 1, 1995.)

SUBTITLE B
ETHICS

CHAPTER 573
DEGREES OF RELATIONSHIP; NEPOTISM PROHIBITIONS

Subchapter A. General Provisions

Section

Subchapter B. Relationships by Consanguinity or by Affinity

Subchapter C. Nepotism Prohibitions

Subchapter D. Exceptions

SUBCHAPTER A GENERAL PROVISIONS

Sec. 573.001. Definitions.

In this chapter:

(1) "Candidate" has the meaning assigned by Section 251.001, Election Code.

(2) "Position" includes an office, clerkship, employment, or duty.

(3) "Public official" means:

(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;

(B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or

(C) a judge of a court created by or under a statute of this state.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.002. Degrees of Relationship.

Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER B RELATIONSHIPS BY CONSANGUINITY OR BY AFFINITY

Sec. 573.021. Method of Computing Degree of Relationship.

The degree of a relationship is computed by the civil law method.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.022. Determination of Consanguinity.

(a) Two individuals are related to each other by consanguinity if:

(1) one is a descendant of the other; or

(2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.023. Computation of Degree of Consanguinity.

(a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.

(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

(1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and

(2) the number of generations between the relative and the nearest common ancestor.

(c) An individual's relatives within the third degree by consanguinity are the individual's:

(1) parent or child (relatives in the first degree);

(2) brother, sister, grandparent, or grandchild (relatives in the second degree); and

(3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.024. Determination of Affinity.

(a) Two individuals are related to each other by affinity if:

(1) they are married to each other; or

(2) the spouse of one of the individuals is related by consanguinity to the other individual.

(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995,

74th Leg., ch. 260 (S.B. 1), § 32, effective May 30, 1995.)

Sec. 573.025. Computation of Degree of Affinity.

(a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

(b) An individual's relatives within the third degree by affinity are:

(1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and

(2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER C
NEPOTISM PROHIBITIONS

Sec. 573.041. Prohibition Applicable to Public Official.

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or

(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.042. Prohibition Applicable to Candidate.

(a) A candidate may not take an affirmative action to influence the following individuals regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Section 573.002:

(1) an employee of the office to which the candidate seeks election; or

(2) an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body.

(b) The prohibition imposed by this section does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.043. Prohibition Applicable to District Judge.

A district judge may not appoint as official stenographer of the judge's district an individual related to the judge or to the district attorney of the district within the third degree.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.044. Prohibition Applicable to Trading.

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

(1) the individual is related to another public official within a degree described by Section 573.002; and

(2) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within a degree described by Section 573.002.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER D
EXCEPTIONS

Sec. 573.061. General Exceptions.

Section 573.041 does not apply to:

(1) an appointment to the office of a notary public or to the confirmation of that appointment;

(2) an appointment of a page, secretary, attendant, or other employee by the legislature for

attendance on any member of the legislature who, because of physical infirmities, is required to have a personal attendant;

(3) a confirmation of the appointment of an appointee appointed to a first term on a date when no individual related to the appointee within a degree described by Section 573.002 was a member of or a candidate for the legislature, or confirmation on reappointment of the appointee to any subsequent consecutive term;

(4) an appointment or employment of a bus driver by a school district if:

(A) the district is located wholly in a county with a population of less than 35,000; or

(B) the district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000;

(5) an appointment or employment of a personal attendant by an officer of the state or a political subdivision of the state for attendance on the officer who, because of physical infirmities, is required to have a personal attendant;

(6) an appointment or employment of a substitute teacher by a school district;

(7) an appointment or employment of a person by a municipality that has a population of less than 200; or

(8) an appointment of an election clerk under Section 32.031, Election Code, who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.07(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 33, effective May 30, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(48), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1026 (H.B. 2930), § 1, effective June 18, 1999; am. Acts 2011, 82nd Leg., ch. 1002 (H.B. 2194), § 14, effective September 1, 2011.)

Sec. 573.062. Continuous Employment.

(a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and

(2) that prior employment of the individual is continuous for at least:

(A) 30 days, if the public official is appointed;

(B) six months, if the public official is elected at an election other than the general election for state and county officers; or

(C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER E
ENFORCEMENT

Sec. 573.081. Removal in General.

(a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.

(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection (a).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.082. Removal by Quo Warranto Proceeding.

(a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.

(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.083. Withholding Payment of Compensation.

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 573.084. Criminal Penalty.

(a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.

(b) An offense under this section is a misdemeanor punishable by a fine not less than $100 or more than $1,000.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

TITLE 6
PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A
PROVISIONS GENERALLY APPLICABLE TO PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 610
CHILD CARE EXPENSE SALARY REDUCTIONS

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 610.001. Definitions.

In this chapter:

(1) "Program administrator" means:

(A) for a state employee employed by The University of Texas System or The Texas A&M University System, the applicable system; or

(B) for every other state employee, the Employees Retirement System of Texas.

(2) "School district" has the meaning assigned by Section 11.13, Tax Code.

(3) "School district employee" means a person who receives compensation for service performed, other than as an independent contractor, for a school district.

(4) "State agency" means:

(A) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or a state judicial agency.

(5) "State employee" means:

(A) a person who receives compensation for service performed, other than as an independent contractor, for a state agency; or

(B) a district judge.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 610.002. Eligible Expenses.

Child care expenses are eligible for payment under a salary reduction agreement entered into under this chapter only if the expenses meet the requirements for exclusion from gross income as provided by Section 129 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 129).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER B
STATE EMPLOYEES

Sec. 610.011. Salary Reduction Agreements for State Employees.

(a) The state may enter into an agreement with a state employee to reduce the employee's periodic compensation paid by the state by an amount to be paid for child care expenses.

(b) A state employee may request the salary reduction agreement by filing a written request for the reduction, on a form prescribed by the program administrator, with the payroll officer of the state agency with which the employee is employed.

(c) A state employee is entitled to select the recipient of payments under the salary reduction agreement.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 610.012. State Employees Paid Through Comptroller.

(a) The payroll officer of a state agency having employees who are paid by warrant issued by the comptroller shall send to the program administrator a copy of each request filed by an employee of the agency under Section 610.011.

(b) If the program administrator determines that an employee's request meets the applicable requirements for exclusion from gross income for federal tax purposes, the program administrator, on the state's behalf, shall enter into a salary reduction agreement with the requesting employee.

(c) The comptroller shall make payments in the amount by which an employee's compensation is reduced in the manner specified by the employee's salary reduction agreement.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 610.013. State Employees Not Paid Through Comptroller.

(a) The payroll officer of a state agency having employees who are not paid by warrant issued by the comptroller may enter into a salary reduction agreement with a requesting employee of the agency.

(b) A payroll officer who enters into the salary reduction agreement shall make payments in the amount by which an employee's compensation is reduced in the manner specified by the agreement.

(c) A payroll officer's actions under this section are subject to applicable rules adopted by the program administrator under this subchapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 610.014. Rules.

The program administrator shall adopt rules for administering the program authorized by Section 610.011, including rules for determining eligibility for exclusion from gross income for federal tax purposes of amounts by which a state employee's salary may be reduced.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER C
OTHER PUBLIC EMPLOYEES

Sec. 610.021. Salary Reduction Agreements for School District Employees.

(a) The governing body of a school district may authorize a school district employee to enter into an agreement with the school district to reduce the periodic compensation paid the employee by the school district by an amount to be paid for child care expenses.

(b) The governing body of a school district may adopt rules for participating in and administering the program authorized by this section.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

CHAPTER 613
REEMPLOYMENT FOLLOWING MILITARY SERVICE

Subchapter A. Reemployment

Subchapter B. Enforcement

SUBCHAPTER A
REEMPLOYMENT

Sec. 613.001. Definitions.

In this subchapter:

(1) "Local governmental entity" means a county, municipality, or other political subdivision of this state.

(2) "Military service" means service as a member of:

(A) the Armed Forces of the United States;

(B) the Texas National Guard;

(C) the Texas State Guard; or

(D) a reserve component of the Armed Forces of the United States.

(3) "Public employee" means an employee of the state, a state institution, or a local governmental

entity. The term does not include a temporary employee, an elected official, or an individual serving under an appointment that requires confirmation by the senate.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.002. Reemployment to Same Position Following Military Service.

(a) A public employee who leaves a state position or a position with a local governmental entity to enter active military service is entitled to be reemployed:

(1) by the state or the local governmental entity;

(2) in the same department, office, commission, or board of this state, a state institution, or local governmental entity in which the employee was employed at the time of the employee's induction or enlistment in, or order to, active military service; and

(3) in:

(A) the same position held at the time of the induction, enlistment, or order; or

(B) a position of similar seniority, status, and pay.

(b) To be entitled to reemployment under Subsection (a), the employee must be:

(1) discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary of the date of induction, enlistment, or call to active military service; and

(2) physically and mentally qualified to perform the duties of that position.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.003. Reemployment to Another Position Following Military Service.

A public employee who cannot perform the duties of a position to which the employee is otherwise entitled under Section 613.002 because of a disability the employee sustained during military service is entitled to be reemployed in the department, office, commission, or board of the state, a state institution, or a local governmental entity in a position that the employee can perform and that has:

(1) like seniority, status, and pay as the former position; or

(2) the nearest possible seniority, status, and pay to the former position.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.004. Application for Reemployment.

(a) A veteran eligible for reemployment under this chapter must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service.

(b) An application for reemployment must:

(1) be made to the head of the department, office, commission, or board of this state, the state institution, or the local governmental entity that employed the veteran before the veteran entered military service;

(2) be in writing; and

(3) have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.005. Discharge Following Reemployment.

An individual reemployed under this chapter may not be discharged from the position without cause before the first anniversary of the date of reemployment.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.006. Entitlement to Retirement or Other Benefits.

An individual reemployed under this chapter is considered to have been on furlough or leave of absence during the time the individual was in military service and may participate in retirement or other benefits to which a public employee is or may be entitled.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER B ENFORCEMENT

Sec. 613.021. Compliance with Law; Hearing.

(a) If a public official fails to comply with a provision of Subchapter A, a district court in the district in which the individual is a public official may require the public official to comply with the provision on the filing of a motion, petition, or other appropriate pleading by an individual entitled to a benefit under the provision.

(b) The court shall order a speedy hearing and shall advance the hearing on the calendar.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.022. District Attorney.

On application to the district attorney of the appropriate district by an individual who the district attorney reasonably believes is entitled to the benefit of a provision of Subchapter A, the district attorney shall:

(1) appear and act as attorney for the individual in an amicable adjustment of the claim; or

(2) file or prosecute a motion, petition, or other appropriate pleading to specifically require compliance with the provision.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 613.023. Court Costs and Fees.

A person applying for benefits under Subchapter A may not be charged court costs or fees for a claim, motion, petition, or other pleading filed under Section 613.021.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

CHAPTER 617
COLLECTIVE BARGAINING AND STRIKES

Section

Sec. 617.001. Definition.

In this chapter, "labor organization" means any organization in which employees participate and that exists in whole or in part to deal with one or more employers concerning grievances, labor disputes, wages, hours of employment, or working conditions.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 617.002. Collective Bargaining by Public Employees Prohibited.

(a) An official of the state or of a political subdivision of the state may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of public employees.

(b) A contract entered into in violation of Subsection (a) is void.

(c) An official of the state or of a political subdivision of the state may not recognize a labor organization as the bargaining agent for a group of public employees.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 617.003. Prohibition on Strikes by Public Employees.

(a) Public employees may not strike or engage in an organized work stoppage against the state or a political subdivision of the state.

(b) A public employee who violates Subsection (a) forfeits all civil service rights, reemployment rights, and any other rights, benefits, and privileges the employee enjoys as a result of public employment or former public employment.

(c) The right of an individual to cease work may not be abridged if the individual is not acting in concert with others in an organized work stoppage.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 617.004. Right to Work.

An individual may not be denied public employment because of the individual's membership or nonmembership in a labor organization.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 617.005. Effect of Chapter.

This chapter does not impair the right of public employees to present grievances concerning their wages, hours of employment, or conditions of work either individually or through a representative that does not claim the right to strike.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBTITLE B
STATE OFFICERS AND EMPLOYEES

CHAPTER 662
HOLIDAYS AND RECOGNITION DAYS, WEEKS, AND MONTHS

Subchapter C. Recognition Days

Section

SUBCHAPTER C
RECOGNITION DAYS

Sec. 662.041. Sam Rayburn Day.

(a) January 6 is Sam Rayburn Day in memory of that great Texas and American statesman, Sam Rayburn.

(b) Sam Rayburn Day shall be regularly observed by appropriate programs in the public schools and other places to commemorate the birthday of Sam Rayburn.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 662.045. Father of Texas Day.

(a) November 3 is Father of Texas Day in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas.

(b) Father of Texas Day shall be regularly observed by appropriate and patriotic programs in the public schools and other places to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this beloved state.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 662.047. State of Texas Anniversary Remembrance Day (Star Day).

(a) February 19 is State of Texas Anniversary Remembrance Day (STAR Day) in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846.

(b) State of Texas Anniversary Remembrance Day (STAR Day) shall be regularly observed by appropriate and patriotic programs in the public schools and other places to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state.

(Enacted by Acts 1999, 76th Leg., ch. 502 (S.B. 1656), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(58), effective September 1, 2001 (renumbered from Secs. 662.046 and 662.050).)

Sec. 662.049. Public School Paraprofessional Day.

(a) The second Wednesday in May of each year is Public School Paraprofessional Day in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors.

(b) Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in the public schools and other places to properly recognize the paraprofessionals who have made tremendous contributions to the educational process.

(Enacted by Acts 2001, 77th Leg., ch. 287 (H.B. 108), § 1, effective May 23, 2001.)

Sec. 662.050. Texas First Responders Day.

(a) September 11 is Texas First Responders Day in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies.

(b) Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools and other places to honor Texas first responders. Each governmental entity may determine the appropriate ceremonies by which Texas observes Texas First Responders Day.

(Enacted by Acts 2003, 78th Leg., ch. 614 (H.B. 1937), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1312 (H.B. 9), § 6, effective June 21, 2003.)

Sec. 662.051. Women's Independence Day.

(a) August 26 is Women's Independence Day to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote.

(b) Women's Independence Day shall be regularly observed by appropriate programs in the public schools and other places to inspire a greater appreciation of the importance of women's suffrage.

(Enacted by Acts 2005, 79th Leg., ch. 19 (H.B. 67), § 1, effective May 9, 2005.)

Sec. 662.055. Dr. Hector P. Garcia Day.

(a) The third Wednesday of September is Dr. Hector P. Garcia Day in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished

physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States.

(b) Dr. Hector P. Garcia Day may be regularly observed by appropriate ceremonies and activities in the public schools and other places to properly commemorate the importance of the contributions made by Dr. Garcia.

(Enacted by Acts 2009, 81st Leg., ch. 274 (S.B. 495), § 1, effective September 1, 2009.)

Sec. 662.056. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 11] American Indian Heritage Day.

(a) The last Friday in September is American Indian Heritage Day in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to this state.

(b) American Indian Heritage Day shall be regularly observed by appropriate ceremonies, activities, and programs in the public schools and other places to honor American Indians in this state and to celebrate the rich traditional and contemporary American Indian culture.

(Enacted by Acts 2013, 83rd Leg., ch. 11 (H.B. 174), § 1, effective May 10, 2013.)

Sec. 662.056. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 51] Texas Arbor Day.

(a) The first Friday in November of each year is Texas Arbor Day to encourage the planting and cultivation of forest, shade, and ornamental trees throughout the state.

(b) Texas Arbor Day shall be regularly observed by appropriate ceremonies and activities.

(Enacted by Acts 2013, 83rd Leg., ch. 51 (H.B. 419), § 1, effective May 18, 2013.)

SUBCHAPTER D
RECOGNITION MONTHS

Sec. 662.102. Texas History Month.

(a) March is Texas History Month in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history.

(b) Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools and other places to promote interest in and knowledge of Texas history.

(Enacted by Acts 2003, 78th Leg., ch. 423 (H.B. 294), § 1, effective June 20, 2003.)

Sec. 662.104. Lung Cancer Awareness Month.

(a) November is Lung Cancer Awareness Month to increase awareness of lung cancer and encourage funding of research and more effective treatments.

(b) Lung Cancer Awareness Month may be regularly observed by appropriate activities in public schools and other places to increase the awareness of lung cancer and support for lung cancer research.

(Enacted by Acts 2007, 80th Leg., ch. 224 (H.B. 1449), § 1, effective September 1, 2007.)

Sec. 662.105. Child Safety Month.

(a) April is Child Safety Month in recognition of the children of this state as this state's most precious resource. By establishing April as Child Safety Month, this state seeks to ensure that the children of this state grow up in a safe and supportive environment by promoting their protection and care through increased public awareness of:

(1) ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms; and

(2) the dangers presented to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather.

(b) Child Safety Month may be regularly observed by appropriate celebrations and activities in public schools and other places to promote the protection and care of children in this state.

(Enacted by Acts 2007, 80th Leg., ch. 651 (H.B. 1045), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(44), effective September 1, 2009 (renumbered from Sec. 662.103).)

Sec. 662.106. Hydrocephalus Awareness Month.

(a) October is Hydrocephalus Awareness Month to:

(1) increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and

(2) encourage the development of partnerships between the federal government, health care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

(b) Hydrocephalus Awareness Month shall be regularly observed by appropriate activities in public schools and other places to increase awareness of hydrocephalus.

(Enacted by Acts 2009, 81st Leg., ch. 966 (H.B. 3597), § 1, effective September 1, 2009.)

Sec. 662.109. Persons with Disabilities History and Awareness Month.

(a) October is Persons with Disabilities History and Awareness Month to:

(1) increase public awareness of the many achievements of people with disabilities;

(2) encourage public understanding of the disability rights movement; and

(3) reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities.

(b) Persons with Disabilities History and Awareness Month shall be regularly observed by appropriate celebration and activities to promote respect for and better treatment of people with disabilities in this state.

(c) Each public school may:

(1) elect to observe Persons with Disabilities History and Awareness Month; and

(2) determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month.

(Enacted by Acts 2011, 82nd Leg., ch. 582 (H.B. 3616), § 1, effective September 1, 2011.)

TITLE 7
INTERGOVERNMENTAL RELATIONS

CHAPTER 791
INTERLOCAL COOPERATION CONTRACTS

Subchapter A. General Provisions

Subchapter B. General Interlocal Contracting Authority

Subchapter C. Specific Interlocal Contracting Authority

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 791.001. Purpose.

The purpose of this chapter is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.002. Short Title.

This chapter may be cited as the Interlocal Cooperation Act.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.003. Definitions.

In this chapter:

(1) "Administrative functions" means functions normally associated with the routine operation of government, including tax assessment and collection, personnel services, purchasing, records management services, data processing, warehousing, equipment repair, and printing.

(2) "Interlocal contract" means a contract or agreement made under this chapter.

(3) "Governmental functions and services" means all or part of a function or service in any of the following areas:

(A) police protection and detention services;

(B) fire protection;

(C) streets, roads, and drainage;

(D) public health and welfare;

(E) parks and recreation;

(F) library and museum services;

(G) records center services;

(H) waste disposal;

(I) planning;

(J) engineering;

(K) administrative functions;

(L) public funds investment;

(M) comprehensive health care and hospital services; or

(N) other governmental functions in which the contracting parties are mutually interested.

(4) "Local government" means a:

(A) county, municipality, special district, junior college district, or other political subdivision of this state or another state;

(B) local government corporation created under Subchapter D, Chapter 431, Transportation Code;

(C) political subdivision corporation created under Chapter 304, Local Government Code;

(D) local workforce development board created under Section 2308.253; or

(E) combination of two or more entities described by Paragraph (A), (B), (C), or (D).

(5) "Political subdivision" includes any corporate and political entity organized under state law.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 823 (S.B. 701), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 98 (S.B. 335), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 301 (H.B. 2931), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1317 (H.B. 3384), § 1, effective June 18, 2005.)

Sec. 791.004. Interlocal Contract: Dual Office Holding.

A person acting under an interlocal contract does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.005. Effect of Chapter.

This chapter does not affect an act done or a right, duty, or penalty existing before May 31, 1971.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.006. Liability in Fire Protection Contract or Provision of Law Enforcement Services.

(a) If governmental units contract under this chapter to furnish or obtain services of a fire department, such as training, fire suppression, fire fighting, ambulance services, hazardous materials response services, fire and rescue services, or paramedic services, the governmental unit that would have been responsible for furnishing the services in the absence of the contract is responsible for any civil liability that arises from the furnishing of those services.

(a-1) Notwithstanding Subsection (a), if a municipality, county, rural fire prevention district, emergency services district, fire protection agency, regional planning commission, or joint board enters into a contract with a governmental unit under this chapter to furnish or obtain fire or emergency services, the parties to the contract may agree to assign responsibility for civil liability that arises from the furnishing or obtaining of services under the contract in any manner agreed to by the parties. To assign responsibility for civil liability under this subsection, the parties to the contract must assign responsibility in a written provision of the contract that specifically references this subsection and states that the assignment of liability is intended to be different than liability otherwise assigned under Subsection (a).

(b) In the absence of a contract, if a municipality or county furnishes law enforcement services to another municipality or county, the governmental unit that requests and obtains the services is responsible for any civil liability that arises from the furnishing of those services.

(c) Nothing in this section adds to or changes the liability limits and immunities for a governmental unit provided by the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Code, or other law.

(d) Notwithstanding any other provision of this chapter, a contract under this chapter is not a joint enterprise for the purpose of assigning or determining liability.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 2001, 77th Leg., ch. 811 (H.B. 785), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1337 (S.B. 9), § 16, effective June 18, 2005.)

SUBCHAPTER B GENERAL INTERLOCAL CONTRACTING AUTHORITY

Sec. 791.011. Contracting Authority; Terms.

(a) A local government may contract or agree with another local government or a federally recognized Indian tribe, as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1, whose reservation is located within the boundaries of this state to perform governmental functions and services in accordance with this chapter.

(b) A party to an interlocal contract may contract with a:

(1) state agency, as that term is defined by Section 771.002; or

(2) similar agency of another state.

(b-1) A local government that is authorized to enter into an interlocal contract under this section may not contract with an Indian tribe that is not federally recognized or whose reservation is not located within the boundaries of this state.

(c) An interlocal contract may be to:

(1) study the feasibility of the performance of a governmental function or service by an interlocal contract; or

(2) provide a governmental function or service that each party to the contract is authorized to perform individually.

(d) An interlocal contract must:

(1) be authorized by the governing body of each party to the contract unless a party to the contract is a municipally owned electric utility, in which event the governing body may establish procedures for entering into interlocal contracts that do not exceed $100,000 without requiring the approval of the governing body;

(2) state the purpose, terms, rights, and duties of the contracting parties; and

(3) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

(e) An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract.

(f) An interlocal contract may be renewed.

(g) A governmental entity of this state or another state that makes purchases or provides purchasing services under an interlocal contract for a state agency, as that term is defined by Section 771.002, must comply with Chapter 2161 in making the purchases or providing the services.

(h) An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services.

(i) Notwithstanding Subsection (d), an interlocal contract may have a specified term of years.

(j) For the purposes of this subsection, the term "purchasing cooperative" means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors. A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative under this chapter in an amount greater than $50,000 unless a person designated by the local government certifies in writing that:

(1) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or

(2) the plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 47, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 98 (S.B. 335), § 2, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 257 (H.B. 1562), § 1, effective May 30, 2005;Enacted by Acts 2007, 80th Leg.,ch. 1213 (H.B. 1886), § 12, effective September 1,2007; am. Acts 2011, 82nd Leg., ch. 1065 (S.B. 760), § 1, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 1, effective September 1, 2013.)

STATUTORY NOTES

Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 9 provides: "The changes in law made by this Act to Sections 791.011 and 2252.002, Government Code, and Section 49.273(i), Water Code, apply only to a contract made on or after the effective date of this Act [September 1, 2013]."

Sec. 791.012. Law Applicable to Contracting Parties.

Local governments that are parties to an interlocal contract for the performance of a service may, in performing the service, apply the law applicable to a party as agreed by the parties.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 176 (H.B. 501), § 1, effective May 21, 1997.)

Sec. 791.013. Contract Supervision and Administration.

(a) To supervise the performance of an interlocal contract, the parties to the contract may:

(1) create an administrative agency;

(2) designate an existing local government; or

(3) contract with an organization that qualifies for exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended, that provides services on behalf of political subdivisions or combinations of political subdivisions and derives more than 50 percent of its gross revenues from grants, funding, or other income from political subdivisions or combinations of subdivisions.

(b) The agency, designated local government, or organization described by Subsection (a)(3) may employ personnel, perform administrative activities, and provide administrative services necessary to perform the interlocal contract.

(c) All property that is held and used for a public purpose by the administrative agency or designated local government is exempt from or subject to taxation in the same manner as if the property were held and used by the participating political subdivisions.

(d) An administrative agency created under this section may acquire, apply for, register, secure, hold, protect, and renew under the laws of this state, another state, the United States, or any other nation:

(1) a patent for the invention or discovery of:

(A) any new and useful process, machine, manufacture, composition of matter, art, or method;

(B) any new use of a known process, machine, manufacture, composition of matter, art, or method; or

(C) any new and useful improvement on a known process, machine, manufacture, composition of matter, art, or method;

(2) a copyright of an original work of authorship fixed in any tangible medium of expression, now known or later developed, from which the work may be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;

(3) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the agency uses to identify and distinguish the agency's goods and services from other goods and services; and

(4) other evidence of protection of exclusivity issued for intellectual property.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 481 (S.B. 1092), § 1, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 301 (H.B. 2931), § 3, effective September 1, 2003.)

Sec. 791.014. Approval Requirement for Counties.

(a) Before beginning a project to construct, improve, or repair a building, road, or other facility under an interlocal contract, the commissioners court of a county must give specific written approval for the project.

(b) The approval must:

(1) be given in a document other than the interlocal contract;

(2) describe the type of project to be undertaken; and

(3) identify the project's location.

(c) The county may not accept and another local government may not offer payment for a project undertaken without approval required by this section.

(d) A county is liable to another local government for the amount paid by the local government to the county for a project requiring approval under this section if:

(1) the county begins the project without the approval required by this section; and

(2) the local government makes the payment before the project is begun by the county.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.015. Submission of Disputes to Alternative Dispute Resolution Procedures.

Local governments that are parties to an interlocal contract may provide in the contract for the submission of disputes arising under the contract to the alternative dispute resolution procedures authorized by Chapter 2009.

(Enacted by Acts 2001, 77th Leg., ch. 666 (H.B. 2760), § 1, effective September 1, 2001.)

SUBCHAPTER C
SPECIFIC INTERLOCAL CONTRACTING AUTHORITY

Sec. 791.021. Contracts for Regional Correctional Facilities.

The parties to an interlocal contract may contract with the Texas Department of Criminal Justice for the construction, operation, and maintenance of a regional correctional facility if:

(1) title to the land on which the facility is to be constructed is deeded to the department; and

(2) the parties execute a contract relating to the payment of costs for housing, maintenance, and

rehabilitative treatment of persons held in jails who cannot otherwise be transferred under authority of existing statutes to the direct responsibility of the department.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.080, effective September 1, 2009.)

Sec. 791.022. Contracts for Regional Jail Facilities.

(a) In this section:

(1) "Facility" means a regional jail facility constructed or acquired under this section.

(2) "Jailer" means a person with authority to supervise the operation and maintenance of a facility as provided by this section.

(b) A political subdivision of the state, by resolution of its governing body, may contract with one or more political subdivisions of the state to participate in the ownership, construction, and operation of a regional jail facility.

(c) The facility must be located within the geographic boundaries of one of the participating political subdivisions. The facility is not required to be located in a county seat.

(d) Before acquiring and constructing the facility, the participating political subdivisions shall issue bonds to finance the facility's acquisition and construction. The bonds must be issued in the manner prescribed by law for issuance of permanent improvement bonds.

(e) To supervise the operation and maintenance of a facility, the participating political subdivisions may agree to:

(1) appoint as jailer of the facility the police chief or sheriff of the political subdivision in which the facility is located;

(2) form a committee composed of the sheriff or police chief of each participating political subdivision to appoint a jailer of the facility; or

(3) authorize the police chief or sheriff of each participating political subdivision to continue to supervise and manage those prisoners incarcerated in the facility under the authority of that officer.

(f) If participating political subdivisions provide for facility supervision under Subsection (e), the person designated to supervise operation and maintenance of the facility shall supervise the prisoners incarcerated in the facility.

(g) When a prisoner is transferred from the facility to the originating political subdivision, the appropriate law enforcement officer of the originating political subdivision shall assume supervision and responsibility for the prisoner.

(h) While a prisoner is incarcerated in a facility, a police chief or sheriff not assigned to supervise the facility is not liable for the escape of the prisoner or for any injury or damage caused by or to the prisoner unless the escape, injury, or damage is directly caused by the police chief or sheriff.

(i) The political subdivisions may employ or authorize the jailer of the facility to employ personnel necessary to operate and maintain the facility.

(j) The jailer of the facility and any assistant jailers must be commissioned peace officers.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.023. Contracts for State Criminal Justice Facilities.

The state or an agency of the state may contract with one or more entities to finance, construct, operate, maintain, or manage a criminal justice facility provided, in the exercise of the governmental power, for the benefit of the state in accordance with this chapter and:

(1) Subchapter A, Chapter 494, Government Code;

(2) Subchapter D, Chapter 361, Local Government Code; or

(3) the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271, Local Government Code).

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.024. Contracts for Community Corrections Facilities.

A community supervision and corrections department established under Section 76.002 may agree with the state, an agency of the state, or a local government to finance, construct, operate, maintain, or manage a community corrections facility under Section 76.010(b) or a county correctional center under Subchapter H, Chapter 351, Local Government Code.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 7.18, effective September 1, 1995.)

Sec. 791.025. Contracts for Purchases.

(a) A local government, including a council of governments, may agree with another local government or with the state or a state agency, including the comptroller, to purchase goods and services.

(b) A local government, including a council of governments, may agree with another local government, including a nonprofit corporation that is cre-

ated and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and any services reasonably required for the installation, operation, or maintenance of the goods. This subsection does not apply to services provided by firefighters, police officers, or emergency medical personnel.

(c) A local government that purchases goods and services under this section satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services.

(d) In this section, "council of governments" means a regional planning commission created under Chapter 391, Local Government Code.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1995, 74th Leg., ch. 28 (H.B. 305), § 1, effective April 27, 1995; am. Acts 1997, 75th Leg., ch. 826 (S.B. 395), § 1, effective June 18, 1997; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.62, effective September 1, 2007.)

Sec. 791.026. Contracts for Water Supply and Wastewater Treatment Facilities.

(a) A municipality, district, or river authority of this state may contract with another municipality, district, or river authority of this state to obtain or provide part or all of:

(1) water supply or wastewater treatment facilities; or

(2) a lease or operation of water supply facilities or wastewater treatment facilities.

(b) The contract may provide that the municipality, district, or river authority obtaining one of the services may not obtain those services from a source other than a contracting party, except as provided by the contract.

(c) If a contract includes a term described by Subsection (b), payments made under the contract are the paying party's operating expenses for its water supply system, wastewater treatment facilities, or both.

(d) The contract may:

(1) contain terms and extend for any period on which the parties agree;

(2) require the purchaser to develop alternative or replacement supplies prior to the expiration date of the contract and may provide for enforcement of such terms by court order; and

(3) provide that it will continue in effect until bonds specified by the contract and any refunding bonds issued to pay those bonds are paid.

(e) Where a contract sets forth explicit expiration provisions, no continuation of the service obligation will be implied.

(f) Tax revenue may not be pledged to the payment of amounts agreed to be paid under the contract.

(g) The powers granted by this section prevail over a limitation contained in another law.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1010 (S.B. 1), § 2.01, effective September 1, 1997.)

Sec. 791.027. Emergency Assistance.

(a) A local government may provide emergency assistance to another local government, whether or not the local governments have previously agreed or contracted to provide that kind of assistance, if:

(1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and

(2) before the emergency assistance is provided, the governing body of the local government that is to provide the assistance authorizes that local government to provide the assistance by resolution or other official action.

(b) This section does not apply to emergency assistance provided by law enforcement officers under Chapter 362, Local Government Code.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.028. Contracts for Joint Payment of Road Construction and Improvements.

(a) In this section:

(1) "Highway project" means the acquisition, design, construction, improvement, or beautification of a state or local highway, turnpike, or road project.

(2) "Transportation corporation" means a corporation created under Chapter 431, Transportation Code.

(b) A local government may contract with another local government, a state agency, or a transportation corporation to pay jointly all or part of the costs of a highway project, including the cost of an easement or interest in land required for or beneficial to the project.

(c) A local government and a transportation corporation, in accordance with a contract executed under this section, may:

(1) jointly undertake a highway project;

(2) acquire an easement, land, or an interest in land, in or outside a right-of-way of a highway

project, as necessary for or beneficial to a highway project; or

(3) adjust utilities for the project.

(d) If a contract under this section provides for payments over a term of years, a local government may levy ad valorem taxes in an amount necessary to make the payments required by the contract as they become due.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30(30.196), effective September 1, 1997.)

Sec. 791.029. Contracts for Regional Records Centers.

(a) By resolution of its governing body, a political subdivision of the state may contract with another political subdivision of the state to participate in the ownership, construction, and operation of a regional records center.

(b) Before acquiring or constructing the records center, a participating political subdivision may issue bonds to finance the acquisition and construction of the records center in the manner prescribed by law for the issuance of permanent improvement bonds.

(c) The records center may not be used to store a record whose retention period is listed as permanent on a records retention schedule issued by the Texas State Library and Archives Commission under Section 441.158, unless the center meets standards for the care and storage of records of permanent value established by rules adopted by the commission under Section 203.048, Local Government Code.

(d) The Texas State Library and Archives Commission shall provide assistance and advice to local governments in the establishment and design of regional records centers.

(Enacted by Acts 1991, 72nd Leg., ch. 38 (S.B. 448), § 1, effective September 1, 1991.)

Sec. 791.030. Health Care and Hospital Services.

A local government may contract with another local government authorized to provide health care and hospital services to provide those services for the local government's officers and employees and their dependents.

(Enacted by Acts 1993, 73rd Leg., ch. 823 (S.B. 701), § 2, effective September 1, 1993.)

Sec. 791.031. Transportation Infrastructure.

(a) This section applies only to a local government, other than a school district, that is authorized to impose ad valorem taxes on real property.

(b) The Texas Department of Transportation may enter into an interlocal contract with a local government for the financing of transportation infrastructure that is constructed or that is to be constructed in the territory of the local government by the department in a corridor of land on which no existing state or federal highway is located.

(c) The agreement must include:

(1) the duration of the agreement, which may not exceed 12 years;

(2) a description of each transportation infrastructure project or proposed project;

(3) a map showing the location of each project and property included in the contract; and

(4) an estimate of the cost of each project.

(d) The agreement may establish one or more transportation infrastructure zones. The Texas Department of Transportation and the local government may agree that at one or more specified times, the local government will pay to the Texas Department of Transportation an amount that is calculated on the basis of increased ad valorem tax collections in a zone that are attributable to increased values of property located in the zone resulting from an infrastructure project. The amount may not exceed an amount that is equal to 30 percent of the increase in ad valorem tax collections for the specified period.

(e) Money received by the Texas Department of Transportation under this section may be used:

(1) to provide a local match for the acquisition of right-of-way in the territory of the local government; or

(2) for design, construction, operation, or maintenance of transportation facilities in the territory of the local government.

(Enacted by Acts 1997, 75th Leg., ch. 1171 (S.B. 370), § 1.33, effective September 1, 1997.)

Sec. 791.032. Construction, Improvement, and Repair of Streets in Municipalities.

With the approval of the governing body of a municipality, a local government may enter into an interlocal contract with the municipality to finance the construction, improvement, maintenance, or repair of streets or alleys in the municipality, including portions of the municipality's streets or alleys that are not an integral part of or a connecting link to other roads or highways.

(Enacted by Acts 1999, 76th Leg., ch. 671 (H.B. 508), § 1, effective September 1, 1999.)

Sec. 791.033. Contracts to Construct, Maintain, or Operate Facilities on State Highway System.

(a) In this section, "state highway system" means the highways in this state included in the plan

providing for a system of state highways prepared under Section 201.103, Transportation Code.

(b) A local government may enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government.

(c) An agreement under this section must be approved by the Texas Department of Transportation.

(d) Notwithstanding Section 791.011(d), to make payments under an agreement under this section, a local government may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes to the extent permitted by law; or

(3) provide for a combination of Subdivisions (1) and (2).

(e) The term of an agreement under this section may not exceed 40 years.

(f) Any election required to permit action under this section must be held in conformance with the Election Code or other law applicable to the local government.

(g) In connection with an agreement under this section, a county or municipality may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(h) This section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a local government without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A local government may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

(Enacted by Acts 2005, 79th Leg., ch. 281 (H.B. 2702), § 2.89, effective June 14, 2005.)

Sec. 791.034. Interlocal Contract for Relief Highway Route Around Certain Municipalities.

(a) The governing body of a municipality located in a county in which is located a facility licensed to dispose of low-level radioactive waste under Chapter 401, Health and Safety Code, may enter into an interlocal contract with the county for the construction and maintenance of a relief highway route around and outside the boundaries of the municipality that the governing body determines will serve a public purpose of the municipality.

(b) The municipality may expend municipal funds and may issue certificates of obligation or bonds to pay for expenses associated with a relief highway route under Subsection (a).

(Enacted by Acts 2009, 81st Leg., ch. 357 (H.B. 1255), § 1, effective June 19, 2009.)

Sec. 791.035. [2 Versions: As added by Acts 2011, 82nd Leg., ch. 1049] Contracts with Institutions of Higher Education or University Systems.

(a) A local government and an institution of higher education or university system may contract with one another to perform any governmental functions and services. If the terms of the contract provide for payment based on cost recovery, any law otherwise requiring competitive procurement does not apply to the functions and services covered by the contract.

(b) In this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003, Education Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1049 (S.B. 5), § 2.05, effective June 17, 2011.)

Sec. 791.035. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 1211] Regulation of Traffic in Special Districts.

The commissioners court of a county may enter into an interlocal contract with the board of a special district to apply the county's traffic regulations to a public road in the county that is owned, operated, and maintained by the district if the commissioners court finds that it is in the county's interest to regulate traffic on the public road.

(Enacted by Acts 2013, 83rd Leg., ch. 1211 (S.B. 1411), § 1, effective June 14, 2013.)

TITLE 8
PUBLIC RETIREMENT SYSTEMS

SUBTITLE C
TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 821
GENERAL PROVISIONS

Subchapter A. General Provisions

Subchapter B. Penal Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 821.001. Definitions.

In this subtitle:

(1) "Accumulated contributions" means the total of amounts in a member's individual account in the member savings account, including:

(A) amounts deducted from the compensation of the member;

(B) other member deposits required to be placed in the member's individual account; and

(C) interest credited to amounts in the member's individual account.

(2) "Actuarial equivalent" of a benefit means a benefit of equal monetary value computed on the basis of annuity or mortality tables and on an interest or discount rate that is adopted by the board of trustees for the purpose from time to time and that is in force on the effective date of the benefit.

(3) "Actuarially reduced" means reduced to the actuarial equivalent.

(4) "Annual compensation" means the compensation to a member of the retirement system for service during a school year that is reportable and subject to contributions as provided by Section 822.201.

(5) "Board of trustees" means the board appointed under this subtitle to administer the retirement system.

(6) "Employee" means a person who is employed, as determined by the retirement system, on other than a temporary basis by an employer for at least one-half time at a regular rate of pay comparable to that of other persons employed in similar positions.

(7) "Employer" means any agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education, the Texas Education Agency, and the State Board for Educator Certification.

(8) "Faculty member" means a person who is employed by an institution of higher education on a full-time basis as:

(A) a member of the faculty whose duties include teaching or research;

(B) an administrator responsible for teaching and research faculty;

(C) a member of the administrative staff of the Texas Higher Education Coordinating Board; or

(D) a professional librarian, a president, a chancellor, a vice-president, a vice-chancellor, or other professional staff person whose national mobility requirements are similar to those of faculty members and who fills a position that is the subject of nationwide searches in the academic community.

(9) "Governing board" means the body responsible for policy direction of an institution of higher education.

(10) "Institution of higher education" has the meaning provided for that term in Section 61.003, Education Code.

(11) "Membership service" means service during a time that a person is both an employee and a member of the retirement system.

(12) "Public school" means an educational institution or organization in this state that is entitled by law to be supported in whole or in part by state, county, school district, or other municipal corporation funds.

(13) "Retirement" means the withdrawal from service with a retirement benefit granted under this subtitle.

(14) "Retirement system" means the Teacher Retirement System of Texas.

(15) "School year" means a 12-month period beginning September 1 and ending August 31 of the next calendar year.

(16) "Service" means the time a person is an employee.

(17) "Service credit" means the amount of prior, membership, military, or equivalent membership service credited to a person's account in the retirement system.

(18) "Alternate payee" has the meaning assigned that term by Section 804.001.

(19) "Beneficiary" means the person or entity who, under a valid written designation or by law, is entitled to receive benefits payable by the retirement system on the death of a member or annuitant.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (S.B. 74), § 18, effective November 10, 1981; am. Acts 1985, 69th Leg., ch. 556 (H.B. 2089), § 1, effective Aug. 26, 1985; am. Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 1, effective June 15, 1985; am. Acts 1987, 70th Leg., 2nd C.S., ch. 58 (H.B. 10), § 1, effective October 20, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.001); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 34, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.15, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 80 (H.B. 2561), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 80 (H.B. 2561), § 2 provides: "This Act applies beginning with the 2012-2013 school year."

Sec. 821.002. Purpose of Subtitle.

The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for membership in and the management and operation of the retirement system.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.002).)

Sec. 821.003. Retirement System.

The retirement system is a public entity. Except as provided by Section 825.304, the Teacher Retirement System of Texas is the name by which all business of the retirement system shall be transacted, all its funds invested, and all its cash, securities, and other property held.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 19, effective November 10, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.003); am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 7, effective September 1, 2005.)

Sec. 821.004. Powers and Privileges.

The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.004).)

Sec. 821.005. Exemption from Execution.

All retirement allowances, annuities, refunded contributions, optional benefits, money in the various retirement system accounts, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and municipal taxation, sale, levy, and any other process, and are unassignable.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.005).)

Sec. 821.006. Action Increasing Amortization Period.

(a) A rate of member or state contributions to or a rate of interest or the rate of a fee required for the establishment of credit in the retirement system may not be reduced or eliminated, a type of service may not be made creditable in the retirement system, a limit on the maximum permissible amount of a type of creditable service may not be removed or raised, a new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result

of the particular action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period that exceeds 30 years by one or more years.

(b) If the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years at the time an action described by Subsection (a) is proposed, the proposal may not be adopted if, as a result of the adoption, the amortization period would be increased, as determined by an actuarial valuation.

(Enacted by Acts 1985, 69th Leg., ch. 228 (S.B. 713), § 7, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.006).)

Sec. 821.007. Control of Home Office Facilities.

The buildings comprising the home office of the retirement system are under the control and custodianship of the retirement system, but the retirement system shall:

(1) comply with space use regulations provided by Section 2165.104; the General Appropriations Act; or other state law; and

(2) lease to other persons at fair market value all significant unused space in the buildings.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 17.19(20), effective September 1, 1997.)

Sec. 821.008. Purpose of Retirement System.

(a) The purpose of the retirement system is to invest and protect funds of the retirement system and to deliver the benefits provided by statute, not to advocate or influence legislative action or inaction or to advocate higher benefits.

(b) This section does not prohibit comments by an employee of the retirement system on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 3, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 6, effective September 1, 2011.)

Sec. 821.009. Certain Contracts for Health Care Purposes; Review by Attorney General.

(a) This section applies to any contract with a contract amount of $250 million or more:

(1) under which a person provides goods or services in connection with the provision of medical or health care services, coverage, or benefits; and

(2) entered into by the person and the retirement system.

(b) Notwithstanding any other law, before a contract described by Subsection (a) may be entered into by the retirement system, a representative of the office of the attorney general shall review the form and terms of the contract and may make recommendations to the retirement system for changes to the contract if the attorney general determines that the office of the attorney general has sufficient subject matter expertise and resources available to provide this service.

(c) The retirement system must notify the office of the attorney general at the time the system initiates the planning phase of the contracting process. A representative of the office of the attorney general or another attorney advising the agency under Subsection (d) may participate in negotiations or discussions with proposed contractors and may be physically present during those negotiations or discussions.

(d) If the attorney general determines that the office of the attorney general does not have sufficient subject matter expertise or resources available to provide the services described by this section, the office of the attorney general may require the retirement system to enter into an interagency agreement or to obtain outside legal services under Section 402.0212 for the provision of services described by this section.

(e) The retirement system shall provide to the office of the attorney general any information the office of the attorney general determines is necessary to administer this section.

(Enacted by Acts 2005, 79th Leg., ch. 1011 (H.B. 880), § 3, effective September 1, 2005.)

Sec. 821.010. Provision of Certain Information to Comptroller.

(a) Not later than June 1 of every fifth year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

(b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.

(c) The retirement system shall provide the information in the format prescribed by rule of the comptroller.

(Enacted by Acts 2009, 81st Leg., ch. 232 (S.B. 1589), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 47.02, effective September 28, 2011.)

SUBCHAPTER B
PENAL PROVISIONS

Sec. 821.101. Conversion of Funds; Fraud.

(a) A person commits an offense if the person knowingly or intentionally confiscates, misappropriates, or converts funds that represent deductions from a member's salary or that belong to the retirement system.

(b) A person commits an offense if the person knowingly or intentionally makes or permits the making of a false record for or statement to the retirement system in an attempt to defraud the retirement system.

(c) A member commits an offense if the member intentionally receives as a salary money that should have been deducted as provided by this subtitle from the member's salary.

(d) A person commits an offense if the person knowingly or intentionally violates a requirement of this subtitle other than ones described by Subsection (a), (b), or (c).

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.101).)

Sec. 821.102. Penalties.

(a) An offense under Section 821.101(a) or 821.101(b) is a felony punishable by imprisonment in the Texas Department of Criminal Justice for not less than one nor more than five years.

(b) An offense under Section 821.101(c) is a misdemeanor punishable by a fine of not less than $100 nor more than $500.

(c) An offense under Section 821.101(d) is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.102); am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.084, effective September 1, 2009.)

Sec. 821.103. ancellation of Teacher Certificate.

(a) After receiving notice from the board of trustees of an offense under Section 821.101 and after complying with Chapter 2001 and rules adopted by the State Board for Educator Certification, the State Board for Educator Certification may cancel the teacher certificate of a person if the State Board for Educator Certification determines that the person committed the offense.

(b) The executive director of the State Board for Educator Certification may enter into an agreed sanction.

(c) A criminal prosecution of an offender under Section 821.101 is not a prerequisite to action by the State Board for Educator Certification or its executive director.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 31.103); am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 2, effective September 1, 2001.)

CHAPTER 822
MEMBERSHIP

Subchapter A. Membership

Subchapter B. Member Compensation Subject to Contributions and Credit

SUBCHAPTER A
MEMBERSHIP

Sec. 822.001. Membership Requirement.

(a) Membership in the retirement system includes:

(1) all persons who were members of the retirement system on the day before the effective date of this subtitle; and

(2) all employees of the public school system.

(b) Membership in the retirement system is a condition of employment for employees of the public school system unless an employee is excluded from membership under Section 822.002.

(c) to (f) [Expired pursuant to Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 43, effective September 1, 2005.]

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective

September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.001); am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 43, effective September 1, 2003.)

Sec. 822.0015. Optional Membership for Certain Officials.

(a) In lieu of participating in the Employees Retirement System of Texas, the commissioner of education may elect to participate in the retirement system in the same manner and under the same conditions as a member who is an employee of the public school system.

(b) An election by the commissioner of education to participate in the retirement system must be on a form prescribed by the retirement system for that purpose.

(c) Notwithstanding Section 821.001, if the commissioner of education elects to participate in the retirement system, the State Board of Education is the employer of the commissioner for purposes of this subtitle.

(Enacted by Acts 2003, 78th Leg., ch. 655 (H.B. 2169), § 1, effective June 20, 2003.)

Sec. 822.002. Exceptions to Membership Requirement.

An employee of the public school system is not permitted to be a member of the retirement system if the employee:

(1) is eligible and elects to participate in the optional retirement program under Chapter 830;

(2) is solely employed by a public institution of higher education that as a condition of employment requires the employee to be enrolled as a student in the institution; or

(3) has retired under the retirement system and has not been reinstated to membership pursuant to Section 824.005 or 824.307.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 2, effective June 15, 1985; am. Acts 1987, 70th Leg., ch. 61 (S.B. 630), § 3, effective August 20, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.002); am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.22, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 3, effective September 1, 2001.)

Sec. 822.003. Termination of Membership.

(a) A person terminates membership in the retirement system by:

(1) death;

(2) retirement;

(3) withdrawal of all of the person's contributions while the person is absent from service; or

(4) not qualifying for service credit for five consecutive years.

(b) Termination of membership under Subsection (a)(4) is effective on the first September 1 that occurs after the non-qualifying years. If a person, regardless of age, has five or more years of service credit, failure to qualify for additional service credit does not terminate membership in the retirement system unless all of the person's contributions are withdrawn.

(c) A person does not terminate membership under Subsection (a)(4) if the person:

(1) is performing military service creditable in the retirement system;

(2) is on leave of absence from employment in a public school; or

(3) is earning service credit in another retirement system covered by Chapter 803 or 805.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71th Leg., ch. 835 (S.B. 1093), § 2, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.003); am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), §§ 11.05(b), (m), effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 4, effective September 1, 1995.)

Sec. 822.004. Effect of Termination.

If a person terminates membership in the retirement system under Section 822.003(a)(3) or (a)(4), the retirement system shall cancel all of the person's service credit in the retirement system.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.004).)

Sec. 822.005. Withdrawal of Contributions.

(a) A person who is absent from service except by death or retirement may withdraw all of the accumulated contributions credited to the person in the member savings account.

(b) An application to withdraw contributions under this section must be in writing and on a form prescribed by the board of trustees.

(c) A person is not entitled to withdraw contributions who is employed, has applied for employment, or has received a promise of employment, in a position covered by the retirement system.

(d) The retirement system shall adopt procedures to track and compile information of all applications filed under this section from the time an application is made until any warrant for the refund is issued by the retirement system.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.005); am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 1, effective September 1, 1999.)

Sec. 822.006. Resumption of Membership After Termination.

A person whose membership in the retirement system has been terminated and who resumes membership must enter the retirement system on the same terms as a person entering service for the first time and is not entitled to credit for previous or other terminated service unless it is reinstated under Section 823.501.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.006); am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 4, effective September 1, 2001.)

SUBCHAPTER B
MEMBER COMPENSATION SUBJECT TO CONTRIBUTIONS AND CREDIT

Sec. 822.201. Member Compensation.

(a) Unless otherwise provided by this subtitle, compensation subject to report and deduction for member contributions and to credit in benefit computations is:

(1) beginning with the 1981-82 school year, only a member's salary and wages for service, less any amounts excluded by rules of the board of trustees adopted pursuant to Section 825.110; and

(2) in school years before the 1981-82 school year, all compensation for service that was or should have been reported under laws and rules governing the retirement system when the compensation was paid but excluding compensation greater than $25,000 for a school year beginning after August 31, 1969, but before September 1, 1979, and compensation greater than $8,400 for a school year beginning before September 1, 1969.

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Chapter 610;

(3) amounts that would otherwise qualify as salary and wages under Subdivision (1) but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans;

(4) performance pay awarded to an employee by a school district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e);

(5) the benefit replacement pay a person earns under Subchapter H, Chapter 659, except as provided by Subsection (c);

(6) stipends paid to teachers in accordance with Section 21.410, 21.411, 21.412, or 21.413, Education Code;

(7) amounts by which the member's salary is reduced or that are deducted from the member's salary as authorized by Subchapter J, Chapter 659;

(8) a merit salary increase made under Section 51.962, Education Code;

(9) amounts received under the relevant parts of the educator excellence awards program under Subchapter O, Chapter 21, Education Code, or a mentoring program under Section 21.458, Education Code, that authorize compensation for service;

(10) salary amounts designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code; and

(11) to the extent required by Sections 3401(h) and 414(u)(2), Internal Revenue Code of 1986, differential wage payments received by an individual from an employer on or after January 1, 2009, while the individual is performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986.

(b-1) An individual receiving wages to which Subsection (b)(11) applies is considered employed by the

employer for purposes of this section, and the differential wage payment is considered earned compensation. The retirement system shall determine how contributions attributable to differential wage payments are made.

(c) Excluded from salary and wages are:

(1) expense payments;

(2) allowances;

(3) payments for unused vacation or sick leave;

(4) maintenance or other nonmonetary compensation;

(5) fringe benefits;

(6) deferred compensation other than as provided by Subsection (b)(3);

(7) compensation that is not made pursuant to a valid employment agreement;

(8) payments received by an employee in a school year that exceed $5,000 for teaching a driver education and traffic safety course that is conducted outside regular classroom hours;

(9) the benefit replacement pay a person earns as a result of a payment made under Subchapter B or C, Chapter 661;

(10) any amount received by an employee under:

(A) former Article 3.50-8, Insurance Code;

(B) former Chapter 1580, Insurance Code;

(C) Subchapter D, Chapter 22, Education Code, as that subchapter existed January 1, 2006; or

(D) Rider 9, Page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act); and

(11) any compensation not described in Subsection (b).

(d) For a person who first becomes a member of the retirement system after August 31, 1996, the person's annual compensation for purposes of the retirement system may not exceed the limit imposed by Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(17)), as adjusted by the commissioner of internal revenue for cost-of-living increases in accordance with that provision. This limit does not apply to a person who first became a member of the retirement system before September 1, 1996.

(e) For purposes of Subsection (b)(4), a total compensation plan must:

(1) describe all elements of compensation received by or available to all employees of the employer;

(2) provide for the availability of at least one type of performance pay to classroom teachers employed by the employer;

(3) identify each type of performance pay, the performance criteria for each type of performance pay, and the classes of employees eligible for each type of performance pay;

(4) contain sufficient information concerning the plan to ascertain the amount of each qualifying employee's pay under the plan;

(5) contain performance criteria for earning performance pay that preclude the exercise of discretion for awarding the pay on any basis other than an evaluation of employee or group performance or availability of funding; and

(6) satisfy any other requirements adopted by the retirement system.

(Enacted by Acts 1985, 69th Leg., ch. 556 (H.B. 2089), § 2, effective August 26, 1985; am. Acts 1987, 70th Leg., ch. 944, § 3, effective June 20, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 32.201); am. Acts 1993, 73rd Leg., ch. 347 (S.B. 7), § 8.18, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(34), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 35, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 5, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 330 (H.B. 2812), § 1, effective May 26, 1997; am. Acts 1997, 75th Leg., ch. 1035 (S.B. 645), § 54, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.16, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 931 (H.B. 2307), § 5, effective August 30, 1999; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 118 (H.B. 1545), § 2.10, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 834 (H.B. 1144), § 16, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), § 3.19, effective September 1, 2002; am. Acts 2001, 77th Leg., ch. 1301 (H.B. 1475), § 3, effective June 16, 2001; am. Acts 2003, 78th Leg., ch. 313 (H.B. 3257), § 2.01, effective September 1, 2004; am. Acts 2003, 78th Leg., ch. 430 (H.B. 411), § 6(a), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.016, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), § 18.03, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 8, effective September 1, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 4.11, effective May 31, 2006; am. Acts 2007, 80th Leg., ch. 1152 (S.B. 1877), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1171 (H.B. 3347), § 1, effective

September 1, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 81, effective September 1, 2009.)

CHAPTER 823
CREDITABLE SERVICE

Subchapter A. General Provisions

Subchapter B. Establishment of Prior Service [Repealed]

Subchapter C. Establishment of Membership Service

Subchapter D. Establishment of Military Service

Subchapter E. Establishment of Equivalent Membership Service

Subchapter F. Reinstatement of Service Credit

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 823.001. Types of Creditable Service.

The types of service creditable in the retirement system are:

(1) prior service;
(2) membership service;
(3) military service; and
(4) equivalent membership service.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.001).)

Sec. 823.002. Service Creditable in a Year.

(a) The board of trustees by rule shall determine how much service in any year is equivalent to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

(b) A member shall notify the retirement system in writing of membership service that has not been properly credited by the retirement system on an annual statement. The member must provide verification and make deposits as required by the retirement system before the service may be credited. A member must notify the retirement system of the service in writing on or before the last day of the fifth school year after the end of the school year in which the service was rendered for the service to be credited.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.002); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 6, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 44, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 7, effective September 1, 2011.)

Sec. 823.003. Benefits Based on Service Credit.

Except as otherwise provided under the optional retirement program, years of service on which the amount of a benefit is based consist of the number of years of service credit to which a member is entitled.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.003).)

Sec. 823.004. Computation of and Payment for Credit.

(a) All credit for military service, out-of-state service, developmental leave, work experience in a

career or technological field, and service transferred to the retirement system under Chapter 805 shall be computed on a September 1 through August 31 school year. Payments for service described by this section must be completed not later than the later of the member's retirement date or the last day of the month in which the member submits a retirement application.

(b) The retirement system by rule may establish an irrevocable employer pick-up of member contributions as described by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)(2)) for the purchase of any service credit authorized by law.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 7, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1122 (H.B. 3660), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 5, effective September 1, 2001.)

Sec. 823.005. Acceptance of Rollovers and Transfers from Other Plans.

Subject to rules adopted by the board of trustees, the retirement system shall accept an eligible rollover distribution or a direct transfer of funds from another qualified plan in payment of all or a portion of any deposit a member is permitted to make with the system for credit for service. The rules adopted by the board shall condition the acceptance of a rollover or transfer from another plan on the receipt from the other plan of information necessary to enable the retirement system to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 7, effective September 1, 1995.)

Sec. 823.006. Limits on Annual Contributions for Purchase of Service Credit.

Notwithstanding any other provision of this subtitle, the retirement system may limit the purchase of service credit to the extent required by applicable limits on the amount of annual contributions a participant may make to a qualified plan under Sections 401(a) and 415(c), Internal Revenue Code of 1986.

(Enacted by Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 2, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 9, effective September 1, 2005.)

SUBCHAPTER B ESTABLISHMENT OF PRIOR SERVICE [REPEALED]

Sec. 823.101. Creditable Prior Service [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(1), effective September 1, 2001.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.101).)

Sec. 823.102. Statement of Prior Service [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(1), effective September 1, 2001.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.102).)

Sec. 823.103. Prior Service Credit [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(1), effective September 1, 2001.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.103).)

Sec. 823.104. Restoration of Certificate for Prior Service Excluded Because of Late Initial Employment [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(1), effective September 1, 2001.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.104).)

SUBCHAPTER C ESTABLISHMENT OF MEMBERSHIP SERVICE

Sec. 823.201. Current Membership Service.

(a) Membership service is credited in the retirement system for each year in which a member is an employee and for which the member renders sufficient service for credit under Section 823.002 and makes and maintains with the retirement system the deposits required by this subtitle or prior law.

(b) The board of trustees may adopt rules for the granting of membership service credit.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts

1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 21, effective November 10, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.201).)

Sec. 823.202. Membership Service Previously Waived [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(2), effective September 1, 2001.
(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.202); am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 4, effective September 1, 1997.)

Sec. 823.203. Membership Service for Optional Retirement Program.

A member may not establish service credit in the retirement system for any period when the member was participating in the optional retirement program under Chapter 830.
(Enacted by Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 3, effective September 1, 1999.)

SUBCHAPTER D ESTABLISHMENT OF MILITARY SERVICE

Sec. 823.301. Creditable Military Service.

(a) Except as provided by Section 823.101(2), military service creditable in the retirement system is active federal duty in the armed forces of the United States, other than as a student at a service academy, that was performed:

(1) as a direct result of being inducted or of first enlisting for duty on a date when the federal government was actively inducting persons into the armed forces under federal draft laws;

(2) as a reservist or member of the national guard who was ordered to duty under the authority of federal law;

(3) during a time when the federal government was actively inducting persons into the armed forces under federal draft laws; or

(4) as a result of voluntarily entering on active duty.

(b) A member may not establish more than five years of service credit in the retirement system under this subchapter for military service. Service may be established in one-year increments except as otherwise provided by this subchapter.

(c) The board of trustees may adopt rules expanding the military service creditable in the retirement system in order to comply with the requirements of federal law.

(d) Military service that is terminated by sentence of a court-martial is not creditable under this section.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.301); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 1, effective November 12, 1991; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 5, effective September 1, 1997.)

Sec. 823.302. Military Service Credit.

(a) An eligible member may establish service credit in the retirement system for military service performed that is creditable as provided by Section 823.301.

(b) A member eligible to establish military service credit is one who has at least five years of service credit in the retirement system for actual service in public schools, except that a member meeting this condition does not qualify for insurance coverage under Chapter 1575, Insurance Code, until the member has 10 or more years of membership service credit.

(c) A member may establish credit under this section by depositing with the retirement system for each year of military service claimed a contribution in an amount equal to:

(1) the member's contributions to the retirement system during the most recent full year of membership service that preceded the military service, if the military service was performed while the person was a member of the retirement system; or

(2) the member's contributions to the retirement system during the first full year of membership service, if the military service was performed before the person became a member of the retirement system.

(d) In addition to the contribution required by Subsection (c), a member claiming credit for military service must pay a fee of eight percent, compounded annually, of the required contribution from the date of first eligibility to the date of deposit.

(e) After a member makes the deposits required by this section, the retirement system shall grant the member one year of military service credit for each year of military service approved.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.302); am. Acts 1991, 72nd Leg., 1st

C.S., ch. 13 (H.B. 158), § 2, effective November 12, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 8, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), §§ 10A—5(10A.521), effective September 1, 2003.)

Sec. 823.3021. Special Military Service Credit [Expired].

Expired pursuant to the terms of Subsection (*l*) as added by Acts 1993, 73rd Leg., ch 785 (H.B. 2118), § 1.

(Enacted by Acts 1993, 73rd Leg., ch. 785 (H.B. 2118), § 1, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 6, effective September 1, 1997.)

Sec. 823.303. Military Leave Credit.

A member who performs military service creditable in the retirement system but who does not establish credit for the service by making the deposits required by Section 823.302 is entitled to credit of a year for each year of military service performed, if the member requests the credit in writing before the later of the date of application for retirement or the effective date of retirement. The credit is usable only in determining eligibility for, but not the amount of, benefits under Section 824.406.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (S.B. 74), § 22, effective September 1, 1982; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.303); am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 7, effective September 1, 1997.)

Sec. 823.304. USERRA Credit.

(a) A person eligible to establish USERRA credit is one who qualifies under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Section 4301 et seq., for the benefits of reemployment in a position included within the membership of the retirement system and who is entitled under that Act to additional credit and benefits from the retirement system because of the person's active duty in the armed forces of the United States.

(b) A person who receives credit under this section may not receive military service credit under Sections 823.301 and 823.302 for the same service.

(c) A person may establish credit under this section by depositing with the retirement system for each year of service claimed an amount equal to the member contributions to the retirement system, as determined by the retirement system, that the person would have made had the person continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person is to receive retirement credit.

(d) To the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 and permitted by Sections 401(a) and 415 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401 and 415), the retirement system may:

(1) grant the person service credit for the period of active duty in the armed forces as if the person had been employed in a position eligible for membership and credit with the retirement system if the person establishes credit by making the required deposits, or, if the person has not made the required deposits, consider the period of active duty for the purpose of determining whether the person meets the length-of-service eligibility requirements for retirement or other benefits administered by the retirement system as if the person had established the credit; and

(2) include in relevant benefit computations under this subtitle the annual compensation, as determined by the retirement system, that would have been otherwise received by the person for service covered by the retirement system during any year in which the person had active duty in the armed forces.

(e) The state shall deposit with the retirement system an amount equal to the state contributions, as determined by the retirement system, that the state would have made had the person continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person has received service credit under this section. The state shall deposit the required amount with the retirement system not later than the 30th day after the date the state receives notice from the retirement system of the amount of state contributions required for service credit established by a person under this section.

(f) The board of trustees may adopt rules that modify the terms of this section for the purpose of compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 3, effective November 12, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 9, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), §§ 1, 2, effective September 1, 2011.)

SUBCHAPTER E
ESTABLISHMENT OF EQUIVALENT MEMBERSHIP SERVICE

Sec. 823.401. Out-of-State Service.

(a) Except as provided by Subsection (b), an eligible member may establish equivalent membership service credit for employment with a public school system maintained wholly or partly by another state or territory of the United States or by the United States for children of its citizens. A school receiving funds under 22 U.S.C. Section 2701 is considered a public school for the purposes of this section.

(b) A member may not establish credit under this section for service performed for a public school while a member of the armed forces, for which service the member was compensated by the United States.

(c) A member eligible to establish credit under this section is one who has at least five years of service credit in the retirement system for actual service in public schools, including at least one year completed after the relevant out-of-state service.

(d) A member may establish credit under this section by depositing with the retirement system for each year of service credit the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(e) A deposit for at least one year of credit must be made with an initial application for credit, and all payments for service claimed under this section must be made before retirement.

(f) The amount of service credit a member may establish under this section may not exceed the lesser of the number of years of membership service credit the member has in the retirement system for actual service in public schools or 15 years.

(g) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of service approved. The retirement system may not use service credit granted under this section in computing a member's annual average compensation.

(h) [Repealed by Acts 2003, 78th Leg., ch. 201 (H. B. 3459), § 61(2), effective September 1, 2003 and Acts 2003, 78th Leg., ch. 1231 (S. B. 1369), § 9(2), effective September 1, 2004.]

(i) [Repealed by Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), § 7(a)(1), effective September 1, 2011.]

(j) The board of trustees may adopt rules providing for the adoption of a reciprocal agreement with a state or territory of a member's previous employment for the payment for service credit established under this section through the transfer from the state or territory to the retirement system of contributions made on behalf of the member in the form of an eligible rollover distribution as provided by Section 401(a)(31), Internal Revenue Code of 1986, and its subsequent amendments.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 23, effective September 1, 1982; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.401); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 2, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 84 (H.B. 1264), § 1, effective May 15, 1995; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 10, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 8, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 4, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 454 (S.B. 477), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 61(2), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 9(2), effective September 1, 2004; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 10, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), §§ 3, 7(a)(1), effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), § 8 provides: "Subsections (d) and (e), Section 823.401, Government Code, as amended by Section 10, Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, effective September 1, 2005, apply to a person who was a member of the Teacher Retirement System of Texas on December 31, 2005, and to out-of-state service performed before January 1, 2006, notwithstanding Section 57 of that Act."

Sec. 823.402. Developmental Leave.

(a) An eligible member may establish equivalent membership service credit for developmental leave that is creditable in the retirement system.

(b) Developmental leave creditable in the retirement system is absence from membership service for a school year that is approved by the member's employer for study, research, travel, or another purpose designed, as determined by the employer, to improve the member's professional competence.

(c) A member eligible to establish credit under this section is one who:

(1) has at least five years of service credited in the retirement system before the developmental leave occurs;

(2) has, at the time the required deposits for the credit are paid, at least one year of membership service credit in the retirement system following the developmental leave; and

(3) has at least five years of service credited in the retirement system at the time the required deposits for the credit are paid.

(d) On or before the date a member takes developmental leave, the member must file with the retirement system a notice of intent to take developmental leave, and the member's employer must file with the retirement system a certification that the leave meets the requirements of Subsection (b). The notice of intent and the certification must be in the form required by the retirement system. Leave is not creditable in the retirement system if the member does not submit notice of intent and obtain the certification required by this subsection.

(e) A member may establish credit under this section by depositing with the retirement system for each year of developmental leave certified the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(f) A member may not establish more than two years of equivalent membership service credit under this section.

(g), (h) [Repealed by Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), § 7(a)(2), effective September 1, 2011.]

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.402); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 3, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 9, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), §§ 4, 7(a)(2), effective September 1, 2011.)

Sec. 823.403. Credit for Accumulated Personal or Sick Leave.

(a) A member who retires from an employer as defined by Section 821.001(7) based on service or a disability is entitled to membership service credit in the retirement system for the member's state personal or sick leave that has accumulated and is unused on the last day of employment pursuant to the terms of this section. State personal or sick leave is creditable in the retirement system in the amount of one year of service credit for 50 days or more, or 400 hours or more, of accumulated state personal or sick leave. An accumulation of less than 50 days is not creditable. Not more than five days of unused state personal or sick leave may be accumulated per year. Credit established under this section may be used only for the purpose of calculating benefits under Section 824.203.

(b) The employer shall, under rules adopted by the retirement system, certify the amount of a member's accumulated state personal or sick leave on the last day of employment before retirement.

(c) On receipt of a certification under Subsection (b) and payment under Subsection (d) of this section, the retirement system shall grant any credit to which a retiree who is a subject of the certification is entitled. The increase in the annuity payment begins with the first payment that becomes due after certification and payment.

(d) In order to receive credit, the member shall pay to the retirement system at the time service credit is granted under this section the actuarial present value of the additional standard retirement annuity benefits under the option selected by the member that would be attributable to the conversion of the unused state personal or sick leave into the service credit based on rates and tables recommended by the actuary and adopted by the board of trustees.

(e) In accordance with local policy, the employer from which the retiring member was compensated on the member's last day of employment may reimburse an employee for all or part of the cost of purchasing service credit under this section.

(Enacted by Acts 1991, 72nd Leg., ch. 882 (H.B. 907), § 1, effective September 1, 1992; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 36, effective May 30, 1995.)

Sec. 823.404. Work Experience by Career or Technology Teacher.

(a) An eligible member may establish equivalent membership service credit for one or two years of work experience for which the member is entitled to salary step credit under Section 21.403(b), Education Code.

(b) A member is eligible to establish equivalent membership service credit under this section if the member has at least five years of membership service credit.

(c) A member may establish credit under this section by depositing with the retirement system, for each year of service, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the conversion of the work experience into service credit based on rates and tables recommended by the actuary and adopted by the board of trustees.

(d) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of service approved.
(Enacted by Acts 1999, 76th Leg., ch. 1122 (H.B. 3660), § 1, effective September 1, 1999.)

Sec. 823.405. Credit Purchase Option [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 1312 (H.B. 3169), § 2, effective January 1, 2006 and Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 55(b), effective January 1, 2006.
(Enacted by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 6, effective September 1, 2001.)

Sec. 823.406. Credit Purchase Option for Certain Service.

(a) A member may establish membership service credit under this section only for service performed during a 90-day waiting period to become a member after beginning employment.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(d) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the employees saving account.

(e) The board of trustees may adopt rules to administer this section.
(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 45, effective September 1, 2003.)

SUBCHAPTER F
REINSTATEMENT OF SERVICE CREDIT

Sec. 823.501. Credit Canceled by Membership Termination.

(a) An eligible person who has terminated membership in the retirement system by withdrawal of contributions or absence from service may reinstate in the system the service credit canceled by the termination.

(b) A person eligible to reinstate service credit under this section is one who is a member of the retirement system at the time the service is reinstated.

(c) A member may reinstate canceled credit under this section by depositing with the retirement system:

(1) the amount withdrawn or refunded; plus

(2) a reinstatement fee of eight percent, compounded annually, of the amount withdrawn or refunded from the date of withdrawal or refund to the date of redeposit.

(d) The retirement system shall determine in each case the amount of money to be deposited by a member reinstating service credit under this section. The system may not provide benefits based on the service until the determined amount has been fully paid.

(e) [Repealed by Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), § 7(a)(3), effective September 1, 2011.]

(f) A member may have an account that was terminated by absence from service reactivated by requesting the reactivation in writing. The beneficiary of a decedent who was a member at the time of death may have an account that was terminated by the decedent's absence from service reactivated by requesting the reactivation in writing before the first payment of a death benefit.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 24, effective September 1, 1982; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.501); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 4, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 10, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 5, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), §§ 5, 7(a)(3), effective September 1, 2011.)

Sec. 823.502. Credit of Retiree [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(3), effective September 1, 2001.
(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 33.502); am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 11, effective September 1, 1997.)

CHAPTER 824
BENEFITS

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 824.001. Types of Benefits.

The types of benefits payable by the retirement system are:

(1) service retirement benefits;

(2) disability retirement benefits; and

(3) death benefits.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.001).)

Sec. 824.002. Effective Date of Retirement.

(a) The effective date of a member's service retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.201;

(2) the month in which the member satisfies age and service requirements for service retirement as provided by Section 824.202; or

(3) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(b) The effective date of a member's disability retirement is the last day of the later of the following months:

(1) any month in a three-month period in which the third month is the month in which the member applies for retirement as provided by Section 824.301; or

(2) the month in which the member's employment in a position included in the coverage of the retirement system ends.

(c) For the purposes of this section, a member's employment in a position covered by the retirement system does not end if the member is on leave of absence or has a contract for future employment in a public school, other than a contract for employment that would, if the retiring member and the employer were to comply with all procedural requirements, qualify under Section 824.602 for an exception to the loss of monthly benefits required by Section 824.601.

(d) A person who works not later than June 15 of a year in order to complete all work required for the school year may be considered to have ended employment on May 31 of that year for the purposes of Subsections (a)(3) and (b)(2).

(e) Not later than the later of a member's retirement date or the last day of the month in which the member's application for retirement is submitted, a member applying for service retirement may reinstate withdrawn contributions, make deposits for military service and equivalent membership service, and receive service credit as provided by this subtitle.

(f) An effective retirement date may not be changed after it is established except by revocation of retirement under Section 824.005 and retirement at a later date.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 4, effective June 15, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.002); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 11, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 7, effective September 1, 2001.)

Sec. 824.003. When Benefits Are Payable.

Except as otherwise provided by this chapter, an annuity provided by this chapter is payable for the month in which the person who receives the annuity dies. Monthly annuity payments are generally due to be paid on the first working day of each month following the month for which the payment accrues. (Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.003); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 12, effective September 1, 1995.)

Sec. 824.004. Waiver of Benefits.

(a) A person may, on a form prescribed by and filed with the retirement system, waive all or a portion of any benefits from the retirement system to which the person is entitled. A person may revoke a waiver of benefits in the same manner as the original waiver was made.

(b) A revocable waiver may be revoked only as to benefits payable after the date the revocation is filed. If a waiver is made irrevocable and is filed with the retirement system before the first benefit payment is made to the person executing the waiver, Section 824.103 applies to determine alternative beneficiaries.

(c) The retirement system shall transfer to the state contribution account from the appropriate benefit reserve accounts amounts not used to pay benefits because of a waiver executed under this section.

(d) The board of trustees may provide rules for administration of waivers under this section.

(e) The retirement system may not require a person filing a waiver of benefits under this section to submit a sworn affidavit in order to receive the accumulated contributions.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.004); am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 2, effective September 1, 1999.)

Sec. 824.005. Revocation of Retirement.

(a) A person who has retired under the retirement system may revoke that retirement by filing with the system a written revocation in a form prescribed by the system. For a revocation to be effective, the retirement system must receive the written revocation before the later of the due date for the first payment of the annuity or the date on which the retirement system makes the first payment. After the later of those dates, a retiree may not revoke the retirement. For purposes of this subtitle, the retirement system makes a payment by depositing a check in the mail or sending payment by electronic fund transfer.

(b) A person who has retired under the retirement system revokes that retirement if the person be-

comes employed in any position in a public school during the first month following that person's effective date of retirement, or during the first two months following an effective date of retirement established by reliance on Section 824.002(d), and must return any retirement benefits received under the original retirement.

(c) A person who revokes a retirement under this section is restored to membership in the retirement system as if that person had never retired.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 5, effective June 15, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.005); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 13, effective September 1, 1995.)

Sec. 824.006. Payment of Annuity on Death of Member or Retiree.

(a) A monthly annuity payable to a retiree or beneficiary is payable to that person through the month in which the person dies. A continuation of an optional annuity or the payment of a death or survivor benefit annuity begins with payment for the month following the month in which the death occurs.

(b) The effective date of death of a member who dies before retirement is, for the purpose of a death or survivor benefit annuity, the last day of the month preceding the month in which the member dies. The first payment of the annuity becomes due at the end of the month in which the member's death occurs.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 14, effective September 1, 1995.)

Sec. 824.007. Deductions from Service or Disability Retirement Annuity.

(a) In this section, "program administrator" means the person who administers the uniform program under Section 1601.102, Insurance Code.

(b) An individual eligible to participate in the uniform program under Section 1601.102, Insurance Code, may authorize the retirement system to deduct the amount of the contribution and any other qualified health insurance premium from the individual's regular monthly service or disability retirement annuity payment if the individual is:

(1) eligible to receive a monthly annuity from the retirement system greater than the amount of the authorized deduction; and

(2) eligible under Section 402(*l*), Internal Revenue Code of 1986, or a similar law, to elect to exclude from annual gross income up to $3,000 of distributions from an eligible retirement plan used for qualified health insurance premiums.

(c) An individual may authorize the deduction described by Subsection (b) on a form provided by the program administrator. The program administrator shall coordinate the implementation of an authorization under Subsection (b) with the retirement system.

(d) After making the deductions, the retirement system shall pay to the program administrator an aggregate amount for all individuals who authorize annuity deductions under Subsection (b).

(e) If an individual no longer receives a monthly annuity greater than the amount of the authorized deduction, the retirement system:

(1) shall inform the program administrator; and

(2) is not required to make any deduction under this section for the individual.

(f) The retirement system is not required to accept an authorization for a deduction under this section if payment of qualified health insurance premiums by deduction from a retirement plan annuity is not required for an eligible retiree to elect the gross income exclusion described by Subsection (b)(2).

(Enacted by Acts 2009, 81st Leg., ch. 1171 (H.B. 3347), § 2, effective September 1, 2009.)

Sec. 824.008. Deductions from Amounts Payable by the Retirement System.

(a) Notwithstanding Section 821.005, the retirement system may deduct the amount of a person's indebtedness to the retirement system from an amount payable by the retirement system to the person or the person's estate and the distributees of the estate.

(b) If the retirement system makes a payment to a participant who is deceased and the payment is not payable, the retirement system may deduct the amount of the payment from any amount payable by the retirement system to a person who received the payment or to that person's estate and distributees of the estate.

(Enacted by Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 8, effective September 1, 2011.)

SUBCHAPTER B
BENEFICIARIES

Sec. 824.101. Designation of Beneficiary.

(a) Except as provided by Subsection (c), any member or annuitant may, on a form prescribed by and filed with the retirement system, designate one

or more beneficiaries to receive benefits payable by the retirement system on the death of the member or annuitant.

(b) Except as provided by Subsection (c), a member or annuitant may change or revoke a designation of beneficiary in the same manner as the original designation was made.

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), and a designation of beneficiary under any of those options may not be made, changed, or revoked, except as provided by Sections 824.1011, 824.1012, and 824.1013, after the later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due. For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

(d) Unless a contrary intention is clearly indicated by a written designation of beneficiary and except as otherwise provided by this section, the most recent designation of beneficiary by a member or annuitant applies to all benefits payable on the death of the member or annuitant.

(e) The retirement system by rule may provide for the designation of alternate beneficiaries and may adopt other rules to administer this section.

(f) A beneficiary designation, change in beneficiary, or revocation of beneficiary is not effective unless it is authorized by this subchapter. Except as provided by Subsection (g), any authorized beneficiary designation, change in beneficiary, or revocation of beneficiary, including any modification ordered by a court or contemplated in a trust or testamentary document, must be executed by the member or annuitant in a form prescribed by the retirement system and must be received by the retirement system before the member's or annuitant's death or, for a beneficiary named to receive continued optional service or disability retirement payments, not later than the deadline established elsewhere in this subtitle.

(g) Receipt by the retirement system of a certified copy of a divorce decree between a member or annuitant and a designated beneficiary revokes any designation of the former spouse as beneficiary of any death benefits payable under Subchapter E or F of this chapter that was effective before the date of divorce, if the decree is received by the retirement system before the payment of any part of the death benefit to any beneficiary.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.101); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 5, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 15, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 12, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 6, effective September 1, 1999.)

Sec. 824.1011. Designation of Beneficiary After Retirement.

(a) A retiree who is receiving a standard service or disability retirement annuity under Section 824.203 or 824.304(b) and who marries after the date of the person's retirement may replace the annuity by selecting an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or under Section 824.308(c)(1), (c)(2), or (c)(5), as applicable, and designating the person's spouse as beneficiary before the second anniversary of the marriage in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(b) The selection of an optional annuity and designation of a beneficiary under this section do not take effect until the first payment of the annuity that becomes due two years after the date the selection and designation are filed with the retirement system.

(c) The retirement system shall recompute the annuity of a retiree who selects an optional annuity and designates a beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the retiree's retirement. The retirement system shall by rule provide for the adjustment of the monthly payments of the annuity under the option selected to an amount which is the actuarial equivalent of the annuity being paid immediately before the change in benefit option and beneficiary selection.

(d) If a retiree who selects an optional annuity and designates a beneficiary under this section dies before the change takes effect or if the designated beneficiary dies before the change takes effect, the selection of an optional annuity and designation of beneficiary have no effect.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 16, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 13, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 7, effective September 1, 1999.)

Sec. 824.1012. Post-Retirement Change in Retirement Payment Plan for Certain Retirement Benefit Options.

(a) As an exception to Section 824.101(c), a retiree who selected an optional service retirement annuity

under Section 824.204(c)(1), (c)(2), or (c)(5) or an optional disability retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5) and who has received at least one payment under the plan selected may change the optional annuity selection made by the retiree to a standard service or disability retirement annuity as provided for in this section. If the beneficiary is the spouse or former spouse of the retiree, the beneficiary must sign a notarized consent to the change, or a court in a divorce proceeding involving the retiree and beneficiary must approve or order the change in the divorce decree or acceptance of a property settlement. The change in plan selection takes effect when the retirement system receives it.

(b) A change described by Subsection (a) cancels the optional annuity selection made by the retiree, effective with the beginning of payments of the annuity as recomputed under this subsection. The retiree is entitled to receive payments of a standard service or disability retirement annuity, as applicable, reduced for early retirement, if applicable, beginning with the payment for the month after the month in which the retirement system receives the notice of change and ending on the death of the retiree. The change also cancels the designation of beneficiary with respect to the optional annuity benefit but does not cancel a designation with respect to any other benefit payable by the retirement system on the death of the retiree.

(c) The retirement system by rule may establish requirements for forms, documentation, and procedures necessary for the administration of this section.

(Enacted by Acts 1997, 75th Leg., ch. 401 (H.B. 475), § 1, effective May 28, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 8, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 8, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), §§ 2, 3, effective September 1, 2013.)

Sec. 824.1013. Change of Beneficiary After Retirement.

(a) A retiree receiving an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or Section 824.308(c)(1), (c)(2), or (c)(5) may change the designated beneficiary as provided by this section for the benefits payable after the retiree's death under those sections.

(b) If the beneficiary designated at the time of the retiree's retirement is the spouse of the retiree at the time of the designation:

(1) the spouse must give written, notarized consent to the change;

(2) if the parties divorce after the designation, the former spouse who was designated beneficiary must give written, notarized consent to the change; or

(3) a court with jurisdiction over the marriage must have ordered the change.

(c) A beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the shorter of:

(1) the remainder of the life expectancy of the beneficiary designated as of the effective date of the retiree's retirement; or

(2) the remainder of the new beneficiary's life.

(c-1) Notwithstanding Subsection (c), a beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the remainder of the beneficiary's life if the beneficiary designated at the time of the retiree's retirement is a trust and the beneficiary designated under this section is the sole beneficiary of that trust.

(d) A retiree may not change a beneficiary under this section after retirement if the retiree has previously changed or designated after retirement a beneficiary for optional retirement annuity payments under this subtitle.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 14, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 9, effective September 1, 1999 (renumbered from Sec. 824.1012); am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 9, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 4, effective September 1, 2013.)

Sec. 824.102. Trust As Beneficiary.

(a) Except as provided by Subsection (b), a member or annuitant may designate a trust as beneficiary for the payment of benefits from the retirement system. If a trust is designated beneficiary, the beneficiary of the trust is considered the designated beneficiary for the purposes of determining eligibility for and the amount and duration of benefits. The trustee is entitled to exercise any rights to elect benefit options and name subsequent beneficiaries.

(b) A trust having more than one beneficiary may not receive benefits to which multiple designated beneficiaries are not entitled under this chapter.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.102).)

Sec. 824.103. Absence of Beneficiary.

(a) Benefits payable on the death of a member or annuitant, except an optional retirement annuity

under Section 824.204(c)(1), (c)(2), or (c)(5), are payable, and rights to elect survivor benefits, if applicable, are available, to one of the classes of persons described in Subsection (b), if:

(1) the member or annuitant fails to designate a beneficiary before death;

(2) a designated beneficiary does not survive the member or annuitant;

(3) a designated beneficiary, under Section 824.004, waives claims to benefits payable on the death of the member or annuitant;

(4) a beneficiary designation is revoked under Section 824.101(g); or

(5) a person is not eligible to receive a benefit under Section 824.105.

(b) The following classes of persons, in descending order of precedence, are eligible to receive benefits in a situation described in Subsection (a):

(1) any surviving joint designated beneficiaries;

(2) any alternate beneficiaries;

(3) the surviving spouse of the decedent;

(4) any children of the decedent or their descendants by representation;

(5) the parents of the decedent;

(6) the executor or administrator of the decedent's estate; or

(7) the persons entitled by law to distribution of the decedent's estate.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.103); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 17, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 10, effective September 1, 2011.)

Sec. 824.104. Failure of Beneficiary to Claim Benefits.

(a) If, before the first anniversary of the death of a member or annuitant, the retirement system does not receive a claim for payment of benefits from a designated beneficiary or a person entitled to benefits under Section 824.103, the retirement system may pay benefits, except an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), under the order of precedence in Section 824.103(b), as if the person failing to claim benefits had predeceased the decedent.

(b) Payment under Subsection (a) bars recovery by any other person of the benefits distributed.

(c) If, before the fourth anniversary of the death of a member or annuitant, payment of benefits based on the death has not been made and no claim for benefits is pending with the retirement system, the accumulated contributions of the deceased member or the balance of the reserve for the deceased annuitant is forfeited to the benefit of the retirement system. The retirement system shall transfer funds forfeited under this subsection to the state contribution account.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.104); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 18, effective September 1, 1995.)

Sec. 824.105. Beneficiary Causing Death of Member or Annuitant.

(a) A benefit payable on the death of a member or annuitant may not be paid to a person who has been convicted of causing that death or who is otherwise ineligible under Subsection (f) but instead is payable to a person who would be entitled to the benefit had the convicted or otherwise ineligible person predeceased the decedent.

(b) A person who becomes eligible under this section to select death or survivor benefits may select benefits as if the person were the designated beneficiary.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted or otherwise ineligible person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to pay benefits under this section unless it receives actual notice of the conviction or other ground of ineligibility of a beneficiary. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

(f) A person is ineligible to receive a benefit payable on the death of a member or annuitant if the person is:

(1) found not guilty by reason of insanity under Chapter 46C, Code of Criminal Procedure, of causing the death of the member or annuitant; or

(2) the subject of an indictment, information, complaint, or other charging instrument alleging

that the person caused the death of the member or annuitant and the person is determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.105); am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 11, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 26(b) provides: "The changes in law made by this Act to Section 824.105, Government Code, apply only to the death of a member or annuitant of the Teacher Retirement System of Texas that is caused by conduct that occurs on or after the effective date of this Act [September 1, 2011]. The death of a member or annuitant that is caused by conduct that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose."

Sec. 824.106. Simultaneous Death of Member and Beneficiary.

When a member or annuitant and the beneficiary of the member or annuitant have died within a period of less than 120 hours, the member or annuitant is considered to have survived the beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or annuitant.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.106).)

SUBCHAPTER C
SERVICE RETIREMENT BENEFITS

Sec. 824.201. Application for Service Retirement Benefits.

(a) A member may apply for a service retirement annuity by filing a written application for retirement with the board of trustees.

(b) At any time before the retirement system makes the first annuity payment or the first annuity payment becomes due, a member may, by filing written notice with the board of trustees, revoke the member's application for retirement or make, revoke, or change a selection of an optional service retirement annuity available as provided by Section 824.204.

(c) Except as specifically provided by this subtitle, a retiree may not revoke a retirement nor make, revoke, or change a selection of an optional service retirement annuity.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.201); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 19, effective September 1, 1995.)

Sec. 824.202. Eligibility for Service Retirement.

(a) **[2 Versions: Effective Until September 1, 2014]** Except as provided by Subsection (a-1), a member is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system;

(2) the member is at least 60 years old and has at least 20 years of service credit in the retirement system;

(3) the member is at least 50 years old and has at least 30 years of service credit in the retirement system; or

(4) the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(a) **[2 Versions: Effective September 1, 2014]** Except as provided by Subsections (a-1) and (a-2), a member is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system;

(2) the member is at least 60 years old and has at least 20 years of service credit in the retirement system;

(3) the member is at least 50 years old and has at least 30 years of service credit in the retirement system; or

(4) the member has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(a-1) **[2 Versions: Effective Until September 1, 2014]** This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007. A member subject to this subsection is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system; or

(2) the member is at least 60 years old and has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(a-1) **[2 Versions: Effective September 1, 2014]** This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (a-2). A member subject to this subsection is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system; or

(2) the member is at least 60 years old and has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(a-2) **[Effective September 1, 2014]** This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. A member subject to this subsection is eligible to retire and receive a standard service retirement annuity if:

(1) the member is at least 65 years old and has at least five years of service credit in the retirement system; or

(2) the member is at least 62 years old and has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(b) **[2 Versions: Effective Until September 1, 2014]** This subsection applies only to a person who is not subject to Subsection (b-1) or (d). If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a)(1), to a percentage derived from the following table:

Age at Date of Retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of Standard Annuity Receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b) **[2 Versions: Effective September 1, 2014]** This subsection applies only to a person who is not subject to Subsection (b-1), (b-2), (d), (d-1), or (d-2). If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a)(1), to a percentage derived from the following table:

Age at Date of Retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of Standard Annuity Receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b-1) **[2 Versions: Effective Until September 1, 2014]** This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007. If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-1), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-1)(1), to a percentage derived from the following table:

Age at Date of Retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of Standard Annuity Receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b-1) **[2 Versions: Effective September 1, 2014]** This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (b-2). If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-1), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-1)(1), to a percentage derived from the following table:

Age at Date of Retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of Standard Annuity Receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(b-2) **[Effective September 1, 2014]** This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-2), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available

under Subsection (a-2)(1), to a percentage derived from the following table:

Age at Date of Retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of Standard Annuity Receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

(c) [Repealed by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 55(a)(1), effective September 1, 2005.]

(d) **[2 Versions: Effective Until September 1, 2014]** This subsection applies only to a person who is not subject to Subsection (d-1). If a member subject to this subsection has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a) decreased by two percent for each year of age under 50 years.

(d) **[2 Versions: Effective September 1, 2014]** This subsection applies only to a person who is not subject to Subsection (d-1) or (d-2). If a member subject to this subsection has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a) decreased by two percent for each year of age under 50 years.

(d-1) **[2 Versions: Effective Until September 1, 2014]** This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007. If the sum of the member's age and amount of service credit in the retirement system equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity, reduced from the standard service retirement annuity available under Subsection (a)(2), to a percentage derived from the following table:

Age at date of Retirement	50	51	52	53	54	55	56	57	58	59	60
Minimum years of service credit required	30	29	28	27	26	25	24	23	22	21	20
Percentage of standard annuity receivable	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%

For each year of age under 50 years with 30 years of service credit, the standard service retirement annuity shall be five percent less than the percentage for age 50 with 30 years of service credit.

(d-1) **[2 Versions: Effective September 1, 2014]** This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007, and who is not subject to Subsection (d-2). If the sum of the member's age and amount of service credit in the retirement system equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a-1)(2) decreased by five percent for each year of age under 60 years.

(d-2) **[Effective September 1, 2014]** This subsection applies only to a person who does not have at least five years of service credit in the retirement system on or before August 31, 2014, or who becomes a member of the retirement system on or after September 1, 2014. If the sum of the member's age and amount of service credit in the retirement system equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of the standard service retirement annuity available under Subsection (a-2)(2) decreased by five percent for each year of age under 62 years.

(e) The board of trustees may adopt tables for reduction of benefits for early retirement by each month of age, but the range of percentages in the tables within a year must be limited to the range provided between two years of age by this section.

(f) Except as provided by Chapter 803 or 805, a member is not eligible to receive service retirement benefits from the retirement system unless the member has at least five years of service credit in the retirement system for actual service in public schools.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1986, 69th Leg., 3rd C.S., ch. 25 (H.B. 38), § 1, effective October 15, 1986; am. Acts 1989, 71st Leg., ch. 222 (H.B. 85), § 1, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 835 (S.B. 490), § 3(a), (b), effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.202); am. Acts 1989, 71st Leg., ch. 1100 (S.B. 1046), § 4.11(a), effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.05(c), effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 20, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 15, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 11, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B.

1691), § 55(a 1), effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 12, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 1, effective September 1, 2014.)

Sec. 824.203. Standard Service Retirement Benefits.

(a) Except as provided by Subsections (c) and (d), the standard service retirement annuity is an amount computed on the basis of the member's average annual compensation for the five years of service, whether or not consecutive, in which the member received the highest annual compensation, times 2.3 percent for each year of service credit in the retirement system.

(b) In the case of a person who retired before August 27, 1979, ceilings in the definition of "annual compensation" apply to the computation of average annual compensation under Subsection (a). In the case of a person who retires on or after that date, those ceilings do not apply and the computation shall be based on actual compensation paid or payable for services as an employee to the extent that the computation includes compensation for school years before the 1981-82 school year.

(c) Except as provided by Subsection (d), for benefits payable because of the death or retirement of a member that occurred before September 1, 1982, the standard service retirement annuity is computed in accordance with applicable prior law.

(d) In no case may the standard service retirement annuity be less than $150 a month. The minimum benefits provided by this section are subject to reduction in the same manner as other benefits because of early retirement or selection of an optional retirement annuity.

(e) [Repealed by Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(4), effective September 1, 2001.]

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 27, effective September 1, 1982; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.203); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 5, effective November 12, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 21, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 16, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 10, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 9, effective June 1, 2002; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(4), effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 12, effective September 1, 2005.)

Sec. 824.2031. Benefit Improvements.

(a) Each regular legislative session, the legislature shall determine whether the performance of the retirement system trust fund makes the fund capable of supporting improvements in the plan of benefits.

(b) A determination under this section shall be founded on the information in the most recent report of an investment performance audit conducted under Section 825.512 and the application of that information to:

(1) the present amortization period for liabilities of the retirement system;

(2) the rate of return on retirement system investments over and above the rate of inflation of the investment portfolio as a whole, of the portion of the investment portfolio entrusted to private investment entities, and of the portion of the investment portfolio entrusted to investment officers who are employees of the retirement system;

(3) economic projections of market conditions and future investment rates of return as reflected in the comptroller's most recent economic forecast and revenue estimate;

(4) the costs, including changes in the amortization period for liabilities of the retirement system, of providing cost-of-living or other increases in benefits to current annuitants; and

(5) an evaluation of the diversity of retirement system investments and whether the portfolio provides low-risk, long-term growth.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 22, effective September 1, 1995.)

Sec. 824.204. Optional Service Retirement Benefits.

(a) Instead of the standard service retirement annuity payable under Section 824.203 or an annuity reduced because of age under Section 824.202, a retiring member may elect to receive an optional service retirement annuity, reduced for early retirement if applicable, under this section. An election to receive an optional service retirement annuity must be filed with the board of trustees not later than the effective date of retirement.

(b) An optional service retirement annuity is an annuity payable throughout the life of the retiree and is actuarially reduced from the annuity otherwise payable under this subtitle to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible member may select one of the following options, which provide that:

(1) after the retiree's death, the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable to and throughout the life of the person nominated by the retiree's written designation filed prior to retirement.

(d) If a person who is nominated by a retiree in the written designation under Section 824.101 predeceases the retiree, the reduced annuity of a retiree who has elected an optional service retirement annuity under Subsection (c)(1), (c)(2), or (c)(5) shall be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option. The standard service retirement annuity shall be adjusted as appropriate for:

(1) early retirement as provided by Section 824.202; and

(2) postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the payment due at the end of September, 1995, or the first monthly payment made to the retiree following the date of death of the person nominated, whichever is later, and is payable to the retiree for the remainder of the retiree's life.

(f) The board of trustees shall adopt separate tables to be used to reduce an optional service retirement annuity under Subsection (d) to the actuarial equivalent of the standard service retirement annuity.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 835 (S.B. 490), § 4 effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.204); am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.05(d), effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 6, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 23, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 17, effective September 1, 1997.)

Sec. 824.2045. Partial Lump-Sum Option.

(a) A member may select a standard service retirement annuity or an optional service retirement annuity described by Section 824.204, reduced for early age as applicable under Section 824.202, together with a partial lump-sum distribution, if:

(1) the member is eligible for a service retirement annuity;

(2) the sum of the member's age and amount of service credit in the retirement system equals the number 90; and

(3) the member is not participating in the deferred retirement option plan under Subchapter I.

(b) The amount of the lump-sum distribution under this section may not exceed the sum of 36 months of a standard service retirement annuity reduced for early age as applicable under Section 824.202 computed without regard to this section.

(c) The service retirement annuity selected by the member shall be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, reduced for early age as applicable under Section 824.202, without the partial lump-sum distribution. The annuity and lump sum shall be computed to result in no actuarial loss to the retirement system.

(d) The retiring member may choose a lump sum equal to 12 months of a standard service retirement annuity and payable at the same time that the first monthly payment of the annuity is paid, a lump sum equal to 24 months of a standard annuity and payable in one or two annual payments, or a lump sum equal to 36 months of a standard annuity and payable in one, two, or three annual payments. At the option of the member, a payment under this subsection may be made as provided by Section 825.509. The amount of the lump sum shall be computed based on a standard service retirement annuity reduced for early age as applicable under Section 824.202.

(e) The amount of the lump-sum distribution will be deducted from any amounts otherwise payable under Section 824.503.

(f) The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option.

(g) Before a retiring member selects a partial lump-sum distribution under this section, the retirement system shall provide a written notice to the member of the amount by which the member's annuity will be reduced because of the selection. The member shall be asked to sign a copy of or receipt for the notice, and the retirement system shall maintain the signed copy or receipt.

(h) The board of trustees may adopt rules for the implementation of this section.

(Enacted by Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 11, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 13, effective September 1, 2005.)

Sec. 824.205. Deductions from Service Retirement Annuity.

(a) A person who receives a service retirement annuity under Section 824.202, 824.203, or 824.204 may, on a form satisfactory to and filed with the retirement system, authorize the retirement system to deduct from the person's monthly annuity payment the amount required as a monthly premium for:

(1) hospital insurance benefits provided to uninsured individuals not otherwise eligible for medical insurance for the aged, as provided by Part A of Title XVIII of the federal Social Security Act (42 U.S.C. Section 1395c et seq.); and

(2) supplementary medical insurance benefits for the aged, as provided by Part B of Title XVIII of the federal Social Security Act (42 U.S.C. Section 1395j et seq.).

(b) After making deductions authorized under Subsection (a), the retirement system shall pay the required premiums to the treasury of the United States, subject to applicable laws relating to the time and manner of payment.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.205).)

Sec. 824.206. Change of Service Retirement Annuity Payment Plan.

(a) A retiree may change the retiree's choice of service retirement annuity payment plans after the retiree's effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first annuity payment or the date the first payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected.

(b) For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

(c) The retirement system may adopt rules to administer this section.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 7, effective September 1, 1993.)

SUBCHAPTER D
DISABILITY RETIREMENT BENEFITS

Sec. 824.301. Application for Disability Retirement Benefits.

(a) A member may apply for a disability retirement annuity by:

(1) filing a written application for retirement with the board of trustees; or

(2) having an application filed with the board by the member's legal representative.

(b) In addition to an application for retirement, a member shall file with the board of trustees the results of a medical examination of the member.

(c) The board of trustees by rule may require the submission to it of additional information about a disability. The retirement system shall prescribe forms for the information required by this section.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.301).)

Sec. 824.302. Eligibility for Disability Retirement.

Subject to Section 824.310, a member is eligible to retire and receive a disability retirement annuity if the member:

(1) is mentally or physically disabled from the further performance of duty; and

(2) has a disability that is probably permanent.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.302) am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 6, effective September 1, 1992; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 1, effective September 1, 2007.)

Sec. 824.303. Certification of Disability.

(a) After a member applies for disability retirement, the medical board may require the member to submit additional information about the disability.

(b) If the medical board finds that the member is mentally or physically disabled from the further performance of duty and that the disability is probably permanent, the medical board shall certify disability, and the member shall be retired.

(c) The medical board may rule on an application for disability retirement at a regular or special meeting or by mail, telephone, telegraph, or other suitable means of communication.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.303).)

Sec. 824.304. Disability Retirement Benefits.

(a) Subject to Section 824.310, if a member has a total of less than 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person a disability retirement annuity of $150 a month for the shortest of the following periods:

(1) the duration of the disability;

(2) the number of months of creditable service the person has at retirement; or

(3) the duration of the person's life.

(b) Subject to Section 824.310, if a member has a total of at least 10 years of service credit in the retirement system on the date of disability retirement, the retirement system shall pay the person for the duration of the disability a disability retirement annuity in an amount equal to the greater of:

(1) a standard service retirement annuity computed under Section 824.203; or

(2) $150 a month.

(c) Before the 31st day after the date on which the medical board certifies a member's disability, the member may reinstate withdrawn contributions and make deposits for military service and equivalent membership service and receive service credit as provided by this subtitle.

(d) The minimum benefits provided by this section are subject to reduction under rules adopted under Section 824.310 and are also subject to reduction in the same manner as other benefits because of the selection of an optional retirement annuity.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.304); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 7, effective September 1, 1992; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), §§ 8, 38, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 24, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 18, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 10, effective June 1, 2002; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 2, effective September 1, 2007.)

Sec. 824.305. Medical Examination of Disability Retiree.

(a) Once each year during the first five years after a member retires for disability, and once in each three-year period after that, the board of trustees may require a disability retiree who is less than 60 years old to undergo a medical examination by one or more physicians the board designates.

(b) If a disability retiree refuses to submit to a medical examination as provided by this section, the board of trustees shall discontinue the retiree's annuity payments until the retiree submits to an examination.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.305).)

Sec. 824.306. Report of Earnings of Disability Retiree [Repealed].

Repealed by Acts 2001, 77th Leg., ch. 477 (H.B. 927), § 1, effective September 1, 2001 and Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(5), effective September 1, 2001.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.306); am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 29(5), effective September 1, 2001.)

Sec. 824.307. Restoration of Disability Retiree to Membership.

(a) If the medical board finds that a disability retiree is no longer mentally or physically incapacitated for the performance of duty, it shall certify its findings and submit them to the board of trustees.

(b) If a disability retiree is restored to active service, other than service described by Section 824.602(a)(1), or refuses for more than one year to submit to a required medical examination, or if the board of trustees concurs in a certification issued under Subsection (a), the board shall discontinue the retiree's annuity payments and the retiree must again become a member of the retirement system.

(c) When a person becomes a member under this section, an amount equal to the sum in the person's individual account in the member savings account at the time of retirement, minus the amount of annuity

payments made since retirement, shall be transferred from the retired reserve account to the person's individual account in the member savings account. The member is entitled to service credit for all service credit used to compute the member's disability retirement annuity at the time of retirement.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.307); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 7, effective September 1, 1992.)

Sec. 824.308. Optional Disability Retirement Benefits.

(a) Instead of an annuity payable under Section 824.304(b), a member retiring under that section may elect to receive an optional disability retirement annuity under this section. An election to receive an optional disability retirement annuity must be filed with the board of trustees not later than the later of the effective date of retirement or the date the member applies for retirement.

(b) An optional disability retirement annuity is an annuity payable throughout the disability of the disability retiree and is actuarially reduced from the annuity otherwise payable under Section 824.304(b), after any reduction under rules adopted under Section 824.310, to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible member may select one of the following options:

(1) after the disability retiree's death, the reduced annuity is payable throughout the life of a person nominated by the retiree's written designation under Section 824.101 filed before retirement;

(2) after the disability retiree's death, one-half of the reduced annuity is payable throughout the life of the retiree's designated beneficiary;

(3) if the disability retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the designated beneficiary;

(4) if the disability retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the designated beneficiary; or

(5) after the disability retiree's death, three-fourths of the reduced annuity is payable throughout the life of the retiree's designated beneficiary.

(d) If the person nominated by the disability retiree's written designation under Section 824.101 filed before or at the time of retirement predeceases the disability retiree, the reduced annuity of a disability retiree who has elected an optional retirement annuity under Subsection (c)(1), (c)(2), or (c)(5) is increased to the standard retirement annuity that the disability retiree would otherwise be entitled to receive if the disability retiree had not selected an annuity option. The standard retirement annuity shall be adjusted as appropriate for postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the first monthly payment made to the disability retiree after the date of death of the designated beneficiary and is payable to the disability retiree for the remainder of the disability retiree's disability.

(f) The board of trustees shall adopt separate tables to be used to reduce an optional disability retirement annuity under this section to the actuarial equivalent of the standard retirement annuity.

(g) The continued payment to a disability retiree and the future payment to the retiree's designated beneficiary of any disability benefit, including an optional payment elected under Subsection (c), are conditioned on the continuation of the retiree's disabled status until the date of the retiree's death.

(h) The same requirements and limitations that apply to the designation or changing of beneficiaries for service retirement annuity options, including Section 824.101, apply to the designation of beneficiaries for disability retirement options.

(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 9, effective September 1, 1992; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 9, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 25, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 3, effective September 1, 2007.)

Sec. 824.309. Change of Disability Retirement Payment Plan.

(a) A retiree may change the retiree's choice of disability retirement payment plans after the retiree's effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first annuity payment or the date the first payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected.

(b) For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

(c) The retirement system may adopt rules to administer this section.
(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 10, effective September 1, 1993.)

Sec. 824.310. Purpose of Disability Benefit; Limit on Supplemental Income.

(a) The purpose of a disability retirement annuity paid under this subchapter is to lessen the financial hardships faced by a member with a disability.

(b) The board of trustees shall adopt rules under which the disability retirement annuity paid to a disability retiree under this subchapter is reduced on a sliding-scale basis or is suspended for a period in which the compensation earned by the retiree for work performed in a 12-month period during the disability retirement, as determined under the rules of the board of trustees, exceeds the compensation earned by the retiree during the 12-month period in which the retiree earned the highest compensation for actual service as a member of the retirement system.

(c) The rules adopted under Subsection (b) must provide for the partial or full reinstatement of a disability retirement annuity that is reduced or suspended if the compensation earned by the retiree for work performed during the disability retirement is reduced or suspended.

(d) The board of trustees by rule shall require a disability retiree to report to the board the amount of compensation earned by the disability retiree that exceeds the amount established by the board by rule for work performed during the disability.
(Enacted by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 4, effective September 1, 2007.)

SUBCHAPTER E
MEMBER DEATH BENEFITS

Sec. 824.401. Availability of Annuity.

(a) A death benefit annuity under this chapter is payable only if the decedent had, at the time of death, at least the minimum amount of service credit in the retirement system necessary for a service retirement annuity at an attained age.

(b) Multiple beneficiaries are not eligible to receive a death benefit annuity under Section 824.402(a)(4) or an equivalent annuity under Section 824.403.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.401).)

Sec. 824.402. Benefits on Death of Active Member.

(a) Except as provided by Section 824.401, the designated beneficiary of a member who dies during a school year in which the member has performed service is eligible to receive at the beneficiary's election the greatest of the following amounts:

(1) an amount equal to twice the member's annual compensation for the school year immediately preceding the school year in which the member dies, or $80,000, whichever is less;

(2) an amount equal to twice the member's rate of annual compensation for the school year in which the member dies, or $80,000, whichever is less;

(3) 60 monthly payments of a standard service retirement annuity, computed as provided by Section 824.203;

(4) an optional retirement annuity for the designated beneficiary's life in an amount computed as provided by Section 824.204(c)(1) as if the member had retired on the last day of the month immediately preceding the month in which the member dies; or

(5) an amount equal to the amount of accumulated contributions in the member's individual account in the member savings account.

(b) In addition to the benefits provided under Subsection (a), the designated beneficiary of a member who is an employee of a school district and who dies as the result of a physical assault during the performance of the employee's regular duties is eligible to receive a lump-sum death benefit payment in the amount of $160,000.

(c) The board of trustees by rule may prescribe the manner of payment of benefits under this section.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1987, 70th Leg., ch. 413 (H.B. 2623), § 4, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.402); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 26, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 12, effective September 1, 1999.)

Sec. 824.403. Benefits on Death of Inactive Member.

(a) Except as provided by Section 824.401, the designated beneficiary of a member who dies while absent from service is eligible to receive:

(1) the same benefits payable under Section 824.402 or 824.404 if the member's absence from service was:

(A) because of sickness, accident, or other cause the board of trustees determines involuntary;

(B) in furtherance of the objectives or welfare of the public school system; or

(C) during a time when the member was eligible to retire or would become eligible without further service before the fifth anniversary of the member's last day of service as a member; or

(2) an amount equal to the accumulated contributions in the member's individual account in the member savings account, if the member's absence from service does not satisfy a requirement of Subdivision (1).

(b) To the extent required by Section 401(a)(37), Internal Revenue Code of 1986, the designated beneficiary of a member who died on or after January 1, 2007, while the member was performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986, is eligible to receive additional benefits to the same extent as if the member had resumed employment and been employed at the time of death.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.403); am. Acts 2009, 81st Leg., ch. 1171 (H.B. 3347), § 3, effective September 1, 2009.)

Sec. 824.404. Survivor Benefits.

(a) The designated beneficiary of a member who dies may, if entitled to a death benefit other than the accumulated contributions of the member, elect to receive, instead of a benefit payable under Section 824.402 or 824.403, a lump-sum payment of $2,500 plus an applicable monthly benefit described in this section.

(b) If the designated beneficiary is the spouse or a dependent parent of the decedent, the beneficiary may elect to receive for life a monthly benefit of $250, beginning immediately or on the date the beneficiary becomes 65 years old, whichever is later.

(c) If the designated beneficiary is the spouse of the decedent and has one or more children less than 18 years old or has custody of one or more children of the decedent who are less than 18 years old, the designated beneficiary may elect to receive:

(1) a monthly benefit of $350 payable until the youngest child becomes 18 years old; and

(2) when the youngest child has attained the age of 18, a monthly benefit for life of $250, beginning on the date the beneficiary becomes 65 years old.

(d) If the designated beneficiary or beneficiaries are the decedent's dependent children who are less than 18 years old, their guardian may elect to receive for them:

(1) a monthly benefit of $350, payable as long as two or more children are less than 18 years old; and

(2) a monthly benefit of $250, payable as long as only one child is less than 18 years old.

(e) If the designated beneficiary is the spouse or a dependent parent of the decedent, benefits under Subsection (d) are payable, if a dependent child less than 18 years old exists, on the death of the beneficiary.

(f) A person who qualifies to receive survivor benefits from more than one deceased member as a spouse or a spouse with a dependent child is entitled to be paid only benefits based on the death of one of the decedents.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1985, 69th Leg., ch. 699 (H.B. 743), § 1, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.404); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 11, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 19, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 11, effective September 1, 2001.)

Sec. 824.4041. Benefits for Certain Surviving Spouses.

(a) A person is eligible to receive benefits under this section if the person:

(1) is the designated beneficiary of a deceased member;

(2) elected before September 1, 1980, to receive for life a monthly benefit of $75 beginning at the age of 65;

(3) became ineligible for the benefits because the person remarried before September 1, 1980; and

(4) reapplies for benefits under this section.

(b) The retirement system shall:

(1) verify whether a person is eligible to receive benefits under this section; and

(2) if the person is eligible, make payments to the person of a monthly benefit in the amount specified in Section 824.404.

(c) The retirement system shall make payment to a person eligible to receive benefits under this section beginning with the month after the month in which the person reapplies for benefits under this section.

(Enacted by Acts 1993, 73rd Leg., ch. 792 (H.B. 458), § 1, effective September 1, 1993.)

Sec. 824.405. Tables for Determination of Death Benefit Annuity.

For the purpose of computing a death benefit annuity under Section 824.402(a)(4) or Section 824.403, the board of trustees shall extend the tables in Section 824.202 to ages earlier than indicated in the tables by actuarially reducing the benefit available under the applicable table to the actuarial equivalent at the attained age of the member.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.405); am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 14, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 13, effective September 1, 2011.)

Sec. 824.406. Benefits for Survivors of Certain Members.

(a) Except as provided by Subsection (c), an eligible surviving spouse who is the designated beneficiary of a person who died before April 8, 1957, and who had at the time of death a total of at least 25 years of service credit and military leave credit in the retirement system, is eligible to receive an applicable survivor benefit available under Section 824.404.

(b) A surviving spouse eligible under this section to receive a benefit is one who has not received from the retirement system a benefit based on the member's death, other than a return of the member's accumulated contributions.

(c) A surviving spouse who qualifies under this section for a survivor benefit is not eligible to receive a lump-sum benefit under Section 824.404(a).

(d) A benefit under this section is payable beginning on the last day of the month in which an eligible person applies for the benefit on a form prescribed by and filed with the retirement system.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.406).)

Sec. 824.407. Guaranteed Return of Amount Equal to Contributions.

If a beneficiary selects a life annuity death benefit under Section 824.402, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased member's accumulated contributions at the time of death exceeds the amount of annuity payments made to the beneficiary before the beneficiary's death. This lump-sum benefit will be paid to the person designated by the beneficiary of the annuity or, if no person is designated, to the estate of the beneficiary.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.407).)

SUBCHAPTER F
RETIREE DEATH BENEFITS

Sec. 824.501. Survivor Benefits.

(a) The designated beneficiary of a service or disability retiree who dies while receiving a service or disability retirement benefit may elect to receive:

(1) a lump-sum payment of $2,500, plus an applicable monthly benefit under Section 824.404; or

(2) a lump-sum benefit of $10,000.

(b) An eligible person may receive benefits under this section, Section 824.204, and Section 824.308.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 835 (S.B. 490), § 5, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.501); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 10, effective September 1, 1992.)

Sec. 824.502. Benefits on Death of Disability Retiree.

The designated beneficiary of a disability retiree who retires before September 1, 1992, who has not selected an optional annuity under Section 824.308, and who dies while receiving a retirement benefit may elect to receive, instead of survivor benefits provided by Section 824.501, a benefit available under Section 824.402, computed as if the decedent had been in service at the time of death.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.502); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 11, effective September 1, 1992; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 13, effective September 1, 1999.)

Sec. 824.503. Return of Excess Contributions.

(a) If a retiree dies while receiving a standard or reduced service retirement annuity as provided by Section 824.202 or an optional service retirement annuity as provided by Section 824.204(c)(1), (c)(2), or (c)(5) and, in the case of a retiree receiving an optional service retirement annuity, if the retiree's designated beneficiary of the annuity has predeceased the retiree, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made before the retiree's death.

(b) A benefit under Subsection (a) is payable to any existing designated beneficiary or, if none exists, in the manner provided by Section 824.103.

(c) If a retiree's designated beneficiary dies while receiving an optional annuity under Section 824.204(c)(1), (c)(2), or (c)(5), the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the retiree's accumulated contributions at the time of retirement exceeds the amount of annuity payments made to the retiree and the designated beneficiary before the beneficiary's death.

(d) A benefit under Subsection (c) is payable to the person or persons designated as the beneficiary of the beneficiary and, if such person has not been designated or does not survive, then to the persons entitled to distribution of the deceased beneficiary's estate.

(e) An eligible person may receive benefits under both this section and Section 824.501.

(f) The designated beneficiary of a disability retiree is eligible to receive the benefits described by this section if the retiree:

(1) retires on or after September 1, 1992; and

(2) dies while receiving disability retirement benefits under Section 824.304(b).

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.503); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 12, effective September 1, 1992; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 27, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 15, effective September 1, 2005.)

Sec. 824.504. Benefits for Survivors of Certain Retirees.

(a) Except as provided by Subsection (b), a surviving spouse who is the designated beneficiary of a retiree who did not perform a year of service after November 23, 1956, that was credited in the retirement system and who died before August 23, 1963, while receiving a retirement benefit, is eligible to receive an applicable survivor benefit available under Section 824.404.

(b) A surviving spouse who qualifies under this section for a survivor benefit is not eligible to receive a lump-sum benefit under Section 824.404(a).

(c) A benefit under this section is payable beginning on the last day of the month in which an eligible person applies for the benefit on a form prescribed by and filed with the retirement system. (Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.504).)

Sec. 824.505. Other Amounts Payable on Death of Retiree.

(a) Amounts payable by the retirement system to an annuitant that are not received by that annuitant or the annuitant's bank, as determined by the retirement system, before the annuitant's death may be paid to the person named to receive benefits in the event of the annuitant's death, in accordance with rules adopted by the board of trustees. The retirement system may send a final monthly payment of an annuity to a bank or another address previously indicated by the annuitant or beneficiary.

(b) The board of trustees may adopt rules necessary to administer this section.

(Enacted by Acts 1991, 72nd Leg., ch. 16 (H.B. 158), § 11.05(f), effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 28, effective September 1, 1995.)

SUBCHAPTER G
LOSS OF BENEFITS ON RESUMPTION OF SERVICE

Sec. 824.601. Loss of Monthly Benefits.

(a) In this section, "third-party entity" means an entity retained by a Texas public educational institution to provide personnel to the institution that perform duties or provide services that employees of the institution would otherwise perform or provide.

(b) Except as provided by Subsection (b-1) or Section 824.602, a retiree is not entitled to service or disability retirement benefit payments, as applicable, for any month in which the retiree is employed in any position by a Texas public educational institution.

(b-1) Subsection (b) does not apply to a retiree under Section 824.202 whose effective date of retirement is on or before January 1, 2011.

(c) A Texas public educational institution, for the purposes of this subchapter, is any entity included in the definition of "employer" or "public school" in Section 821.001 or any entity in whose employment the retiree has earned credit as a member of the retirement system.

(d) A retiree who is an employee of a third-party entity is considered to be employed by a Texas public educational institution for purposes of this subchapter unless the retiree does not perform duties or provide services on behalf of or for the benefit of the institution.

(e) Loss of benefits under this section does not extend any period of guaranteed benefits elected pursuant to Section 824.204.

(f) The system may adopt rules necessary for administering this subchapter.

(Enacted by Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 6, effective June 15, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.601); am. Acts 2003, 78th Leg., ch. 655 (H.B. 2169), § 2, effective June 20, 2003; am. Acts 2011, 82nd Leg., ch. 928 (S.B. 1669), § 1, effective June 17, 2011.)

Sec. 824.602. Exceptions.

(a) Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if the retiree has been separated from service with all Texas public educational institutions for at least 12 full consecutive months after the retiree's effective date of retirement; or

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree.

(b) Working any portion of a day counts as working a full day for the purposes of Subsection (a)(1) or (a)(4).

(c), (d) [Repealed by Acts 2011, 82nd Leg., ch. 928 (S.B. 1669), § 5, effective June 17, 2011.]

(e) Except as provided by Subsections (n) and (o), the exception provided by Subsection (a) does not apply to a retiree working as a substitute under Subsection (a)(1) who also works in another position described by Subsection (a) in the same month.

(f) The retirement system shall include any employment during the school year, including any employment that relied on the exemption provided by Subsection (a)(1) or (a)(4), in determining whether and when a disability retiree has exceeded 90 days of employment in the school year.

(g) The exceptions provided by Subsections (a)(2) and (a)(3) do not apply to disability retirees. The retirement system nevertheless may not withhold a monthly benefit payment under Section 824.601 if:

(1) a disability retiree is employed in a Texas public educational institution in a position, other than as a substitute, for a period not to exceed three consecutive months;

(2) the work occurs in a period, designated by the disability retiree, of no more than three consecutive months;

(3) the disability retiree executes on a form and at a time prescribed by the retirement system a written election to have this exception apply on a one-time trial basis in determining whether benefits are to be suspended for the months of employment after retirement and in determining whether a disability retiree is no longer mentally or physically incapacitated for the performance of duty; and

(4) the disability retiree has not previously elected to avoid loss of monthly benefits under this subsection.

(h) A disability retiree is not entitled to service credit for service during a trial period under Subsection (g) if the retiree is restored to active service.

(i) Section 824.005(b), concerning revocation of retirement on certain reemployment, applies to employment described in Subsection (a) or (g).

(j) The board of trustees shall adopt rules governing the employment of a substitute and defining "one-half time basis."

(k) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in early age retirements and determine the extent to which any increase has been caused by the exception to loss of benefits for employment after retirement provided by Subsection (a)(3). If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system's benefits is endangered by continuation of this exception, the board of trustees may determine that no further elections of the exception will be accepted from retirees, other than from those who have previously relied on the exception in retiring under this subtitle. A retiree may be considered to have relied on this exception only if retirement occurred on or

after May 31, 1985, but before the date the board of trustees acknowledges receipt of such certification and if the retiree has first elected to receive benefits under the exception not later than two years after the retiree's effective date of retirement.

(*l*) This subchapter does not apply to payments under Section 824.804(b).

(m) [Repealed by Acts 2011, 82nd Leg., ch. 928 (S.B. 1669), § 5, effective June 17, 2011.]

(n) The exception provided by Subsection (a) applies to a retiree employed in positions under Subsections (a)(1) and (a)(2) in the same month only if the total number of days that the retiree works in those positions in that month do not exceed the number of days per month for work on a one-half-time basis.

(o) The exception provided by Subsection (a) applies to a disability retiree employed in positions under Subsections (a)(1) and (a)(4) in the same month only if the total number of days that the disability retiree works in those positions in that month do not exceed the number of days per month for work on a one-half-time basis.

(p), (q) [Repealed by Acts 2011, 82nd Leg., ch. 928 (S.B. 1669), § 5, effective June 17, 2011.]

(Enacted by Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 6, effective June 15, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.602); am. Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 13, effective November 12, 1991; am. Acts 1993, 73rd Leg., ch. 113 (H.B. 1581), § 1, effective May 9, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 29, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 20, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 14, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 567 (H.B. 3147), § 1, effective June 11, 2001; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 12, effective June 1, 2002; am. Acts 2003, 78th Leg., ch. 738 (H.B. 3237), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.017, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 674 (H.B. 132), § 8, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 16, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 537 (S.B. 1039), § 1, effective June 16, 2007; am. Acts 2011, 82nd Leg., ch. 928 (S.B. 1669), §§ 2, 3, 5, effective June 17, 2011.)

Sec. 824.6022. Required Reports; Offense.

(a) An employer shall file a monthly certified statement of employment of a retiree in the form and manner required by the retirement system.

(b) A person commits an offense if the person is an administrator of an employer, is responsible for filing a statement under Subsection (a), and knowingly fails to file the statement as required.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 17, effective September 1, 2005.)

Sec. 824.603. Exclusion from Credit.

Employment of a retiree described by Section 824.601(b-1) or 824.602(a) does not entitle the retiree to additional service credit, and the retiree so employed is not required to make contributions to the system from compensation for that employment.

(Enacted by Acts 1985, 69th Leg., ch. 832 (S.B. 1093), § 6, effective June 15, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 34.603); am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 13, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 928 (S.B. 1669), § 4, effective June 17, 2011.)

SUBCHAPTER H
INCREASES IN ANNUITIES

Sec. 824.701. Application of Annuity Increases to Certain Annuities.

(a) An increase that is provided by law in the amount of an annuity being paid by the retirement system and that is applicable to retirements occurring before, or not later than, a date specified in the law also applies to an annuity based on the service of a member who, before October 1, 1989:

(1) accepted, under Subchapter C, service retirement that became effective on a date that is within the period specified for eligibility for the increase;

(2) subsequently revoked the person's service retirement as provided by Section 824.005;

(3) subsequently applied for disability retirement under Section 824.301 to be effective at the end of the month in which the revocation of service retirement occurred;

(4) did not receive a disability retirement annuity under Subchapter D;

(5) subsequently accepted service retirement that became effective at the end of the month in which the earlier revocation of service retirement occurred; and

(6) applies to the retirement system in writing for recomputation of the person's annuity.

(b) As soon as practicable after a person applies under this section, the retirement system shall verify whether an applicant meets the requirements of this section and is entitled to any increases in annuities provided by existing law.

(c) The retirement system shall increase the amount of an annuity payable to a retiree who applies and is verified as eligible for an increase in annuities provided by law, by the amount or rate of the increase. The first payment of an annuity as increased by this section is due on the later of:

(1) the end of the month in which the retiree is verified under this section as eligible for the increase; or

(2) a date of first payment specified in the law providing for the increase.

(d) For the sole purpose of determining eligibility for or the amount of increases in annuities provided by law after the date a retiree has been verified as eligible for an increase under this section, the date of retirement of the person on whose service the annuity is based will be considered the date of original service retirement that was subsequently revoked, if the retiree has not terminated the subsequent service retirement as provided by this subtitle.

(Enacted by Acts 1989, 71st Leg., ch. 222 (H.B. 85), § 5, effective May 26, 1989; am. Acts 1989, 71st Leg., ch. 1100 (S.B. 1046), § 4.11(b), effective September 1, 1989 (renumbered from Title 110B, Sec. 34. 701).)

Sec. 824.702. Cost-of-Living Adjustment.

(a) The retirement system shall make a one-time cost-of-living adjustment payable to annuitants receiving a monthly death or retirement benefit annuity, as provided by this section.

(b) Subject to Subsections (c) and (d), to be eligible for the adjustment, a person must be, on the effective date of the adjustment and disregarding any forfeiture of benefits under Section 824.601, an annuitant eligible to receive:

(1) a standard service or disability retirement annuity payment;

(2) an optional service or disability retirement annuity payment as either a retiree or beneficiary;

(3) an annuity payment under Section 824.402(a)(3) or (4);

(4) an annuity payment under Section 824.502; or

(5) an alternate payee annuity payment under Section 804.005.

(c) If the annuitant:

(1) is a retiree, or is a beneficiary under an optional retirement payment plan, to be eligible for the adjustment under this section:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before August 31, 2004;

(2) is a beneficiary under Section 824.402(a)(3) or (4) 824.502, to be eligible for the adjustment:

(A) the annuitant must be living on the effective date of the adjustment; and

(B) the date of death of the member of the retirement system must have been on or before August 31, 2004; or

(3) is an alternate payee under Section 804.005, the annuitant is eligible for the adjustment only if the effective date of the election to receive the annuity payment was on or before August 31, 2004.

(d) An adjustment made under this section does not apply to payments under:

(1) Section 824.203(d), relating to retirees who receive a standard service retirement annuity in an amount fixed by statute;

(2) Section 824.304(a), relating to disability retirees with less than 10 years of service credit;

(3) Section 824.304(b)(2), relating to disability retirees who receive a disability annuity in an amount fixed by statute;

(4) Section 824.404(a), relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute;

(5) Section 824.501(a), relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(6) Section 824.804(b), relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts.

(e) An adjustment under this section:

(1) must be made beginning with an annuity payable for the month of September 2013; and

(2) is limited to the lesser of:

(A) an amount equal to three percent of the monthly benefit subject to the increase; or

(B) $100 a month.

(f) The board of trustees shall determine the eligibility for and the amount of any adjustment in monthly annuities in accordance with this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 2, effective September 1, 2013.)

SUBCHAPTER I
DEFERRED RETIREMENT OPTION PLAN

Sec. 824.801. Definition.

In this subchapter, "plan" means the deferred retirement option plan provided by this subchapter.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997.)

Sec. 824.8011. Deadline to Elect to Participate.

A person must make an election to participate in the plan not later than December 31, 2005.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 18, effective September 1, 2005.)

Sec. 824.802. Participation in Plan.

(a) A contributing member who is eligible under Section 824.202 to retire and receive a standard service retirement annuity that is not reduced for retirement at an early age and who has at least 25 years of service credit in the retirement system may, if the member remains an employee, elect to participate in the deferred retirement option plan.

(b) An election to participate in the plan must be on a form prescribed by and filed with the retirement system. An election may be made only once and must state the period that the member wishes to participate in the plan. The period must be a minimum of 12 consecutive months and be in 12-month increments. The maximum period a member may participate in the plan is 60 consecutive months. An election under this section is irrevocable after filing. The filing of an election under this section is not considered for any purpose an application for retirement, and a person is not considered a retiree for any purpose because of the filing.

(c) The effective date of a member's participation in the plan is the first day of the month after the month in which an election is received and approved by the retirement system. The retirement system shall approve the election filed by a member who is eligible to make the election.
(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997.)

Sec. 824.803. Computation of Participant's Service and Annuity.

(a) A person participating in the plan remains a member of the retirement system during the period of participation, unless the member terminates membership under Section 822.003, but the member may not, during participation, accrue additional service credit. The member shall make employee contributions to the retirement system, and the state and the member's employing district, if applicable, shall make contributions for the member's service performed during the member's participation in the plan. Member contributions made during the period of participation in the plan are not eligible for withdrawal by the participant and are deposited in the retired reserve account. The member and the state retain the obligation to contribute under Sections 1575.202 and 1575.203, Insurance Code, during the member's participation in this plan.

(b) For purposes of the plan, the computation of the service retirement annuity of a member participating in the plan is determined as of the effective date of participation. A participating member is not eligible to receive a postretirement increase made applicable to annuitants during the member's participation in the plan.

(c) An election to participate in the plan constitutes a deadline for the purchase of special service credit.
(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.522, effective September 1, 2003.)

Sec. 824.804. Benefits Under Plan.

(a) On the effective date of a member's participation in the plan, the retirement system shall make the transfers required by Section 825.309 to the retired reserve account as if the member had retired on that date. The retirement system shall transfer monthly, during the period of the member's participation in the plan, from the retired reserve account to an account for the member in the deferred retirement option account an amount equal to:

(1) 60 percent of the amount the member would have received that month under a standard service retirement annuity if the member had retired under the multiplier currently in effect; or

(2) if the member began participation in the plan before September 1, 1999, 79 percent of the amount the member would have received that month under a standard service retirement annuity if the member had retired under the multiplier currently in effect.

(b) When a member who has participated in the plan retires from the retirement system, the person is entitled to the accumulated amount in the member's account in the deferred retirement option account, including creditable interest. The amount is payable in a lump sum, in periodic installments, or as provided by Section 825.509, at the option of the member. The board of trustees by rule shall determine the number and frequency of installment payments.

(c) If a member dies during participation in the plan or after participation but before retirement, the decedent's designated beneficiary is entitled to the accumulated amount in the decedent's account in the deferred retirement option account, including creditable interest. The beneficiary is also entitled to a death benefit based on compensation and years of service on the effective date of participation in the plan and on age on the date of death.

(d) Payment of the benefit provided under the plan is in addition to any annuity otherwise payable under this subtitle. The retiring member may choose a DROP payment in accordance with the provisions of Section 825.509.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 15, effective September 1, 1999.)

Sec. 824.805. Termination of Participation in Plan.

(a) Except as provided by Subsection (b), a member terminates participation in the plan by:

(1) retirement;

(2) death; or

(3) expiration of the period for which participation was approved.

(b) This subsection applies only to a member participating in the plan on September 1, 2005, or to a member whose period of participation in the plan expired on or before September 1, 2005, but who has not retired on or before that date. A member described by this subsection may, before December 31, 2005, revoke the member's decision to participate in the plan on a form prescribed by and filed with the retirement system. The retirement system shall make account transfers and change records for a member who revokes the member's decision to participate in the plan as if the member had never participated in the plan.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 16, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 14, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 19, effective September 1, 2005.)

Sec. 824.806. Benefits for Service After Plan Participation.

(a) Any eligible service credit accrued after termination of participation in the plan and before retirement shall be credited in the retirement system.

(b) At the time a member retires or dies, the retirement system shall compute the value of the additional service credit at the rate provided under Section 824.203, based on the lesser of the three years of service after the member's termination of plan participation, or the member's actual years of service after the termination, in which the member received the highest annual compensation. The retirement system shall add the amount computed under this subsection to the amount determined on the effective date of plan participation, and the sum is payable, subject to actuarial reduction if applicable, as the monthly annuity payment.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997.)

Sec. 824.807. [2 Versions: Effective Until September 1, 2014] Interest.

Interest is creditable to a member's account in the deferred retirement option account at an annual, prorated rate equal to five percent during the period of participation in the plan and until all benefits are distributed.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997.)

Sec. 824.807. [2 Versions: Effective September 1, 2014] Interest.

Interest is creditable to a member's account in the deferred retirement option account at an annual, prorated rate equal to two percent during the period of participation in the plan and until all benefits are distributed.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 21, effective September 1, 1997; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 3, effective September 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 13 provides: "Section 824.807 and Subsection (b), Section 825.307, Government Code, as amended by this Act, apply only to interest accrued on or after the effective date of this Act [September 1, 2014]. Interest accrued before the effective date of this Act is governed by the law in effect on the date the interest accrued, and that law is continued in effect for that purpose."

CHAPTER 825
ADMINISTRATION

Subchapter A. Board of Trustees

Subchapter B. Powers and Duties of Board of Trustees

SUBCHAPTER A
BOARD OF TRUSTEES

Sec. 825.001. Composition of Board of Trustees.

The board of trustees is composed of nine members.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective

September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.001).)

Sec. 825.002. Trustees Appointed by Governor.

(a) The governor shall appoint, with the advice and consent of the senate and as provided by this section, seven members of the board of trustees.

(b) The governor shall appoint three members of the board to hold office for staggered terms, with the term of one trustee expiring on August 31 of each odd-numbered year. These members must be persons who have demonstrated financial expertise, who have worked in private business or industry, and who have broad investment experience, preferably in investment of pension funds. None of the members appointed under this subsection may be a member or annuitant of the retirement system.

(c) The governor shall appoint two members of the board from a slate of three members of the retirement system who are currently employed by a public school district, charter school, or regional education service center and who have been nominated in accordance with Subsection (f) by the members of the retirement system whose most recent credited service was performed for a public school district, charter school, or regional education service center. The two members hold office for staggered terms.

(d) The governor shall appoint one member of the board from a slate of three former members of the retirement system who have retired and are receiving benefits from the retirement system and who have been nominated in accordance with Subsections (f) and (g) by the persons who have retired and are receiving benefits from the retirement system.

(e) The governor shall appoint one member of the board from a slate of three persons who have been nominated in accordance with Subsection (f) by the following groups collectively:

(1) members of the retirement system whose most recent credited service was performed for an institution of higher education;

(2) members of the retirement system whose most recent credited service was performed for a public school district, charter school, or regional education service center; and

(3) persons who have retired and are receiving benefits from the retirement system.

(e-1) A person may be nominated for appointment to the board under Subsection (e) if the person is:

(1) a member of the retirement system who is currently employed by an institution of higher education;

(2) a member of the retirement system who is currently employed by a public school district, charter school, or regional education service center; or

(3) a former member of the retirement system who has retired and is receiving benefits from the system.

(f) Persons considered for nomination under Subsection (c), (d), or (e) must have been nominated at an election conducted under rules adopted by the board of trustees.

(g) To provide for the nomination of persons for appointment under Subsection (d), the board shall send to each retiree of the retirement system:

(1) notice of the deadline for filing as a candidate for nomination;

(2) information on procedures to follow in filing as a candidate; and

(3) instructions on how to request a paper ballot or vote in another manner established by the board, including by telephone or other electronic means.

(h) If only two persons are nominated under Subsection (c), (d), or (e), the governor shall appoint a member of the board to the applicable trustee position from the slate of two nominated persons. If only one person is nominated under Subsection (c), (d), or (e), the governor shall appoint that person to the applicable trustee position. If no member or retiree is nominated for a position under Subsection (c), (d), or (e), the governor shall appoint to the applicable trustee position a person who otherwise meets the qualifications required for the position.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1983, 68th Leg., ch. 927 (H.B. 1702), § 1, effective September 1, 1983; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.002); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 30, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 14, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 786 (H.B. 2120), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 5, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 26(c) provides: "The change in law made by this Act to Section 825.002, Government Code, applies only to a vacancy on the board of trustees of the Teacher Retirement System of Texas for a term that expires on or after the effective date of this Act [September 1, 2011]. A vacancy for a term that expires before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 786 (H.B. 2120), § 3 provides:

"(a) This Act applies only to the appointment of a trustee of the board of trustees of the Teacher Retirement System of Texas that occurs on or after the effective date of this Act [September 1, 2011].

(b) A person who is serving as a trustee immediately before the effective date of this Act may complete the trustee's term of office,

and the trustee's qualifications for serving as a trustee are governed by the law in effect immediately before the effective date of this Act until the date that trustee's term expires."

Sec. 825.003. Trustees Appointed by Governor from Nominees of Board of Education.

The governor shall appoint two members of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These members must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience, preferably in investment of pension funds.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.003); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 31, effective September 1, 1995.)

Sec. 825.0031. Nondiscrimination in Appointments.

Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 12, effective September 1, 1993.)

Sec. 825.0032. Ineligibility for Board and of Certain Employees.

(a) Except as provided by Subsection (b), a person is not eligible for appointment to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or

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

(b) Subsection (a) does not apply to employment by, participation in the management of, or ownership or control of an interest in a business entity or other organization on behalf of the retirement system. Subsection (a)(3) does not apply to a person who is nominated for appointment under Section 825.002(c), (d), or (e).

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

(1) the person is a paid officer, employee, or consultant of a Texas trade association in the field of investment or insurance; or

(2) the person's spouse is a paid officer, employee, or consultant of a Texas trade association in the field of investment or insurance.

(d) [Repealed by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 27, effective September 1, 2007.]

(e) In this section, a Texas trade association means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(f) A person may not serve as a trustee or act as the general counsel to the board or the retirement system if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 12, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 32, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), §§ 5, 27, effective September 1, 2007.)

Sec. 825.004. Terms of Office; Filling Vacancies.

(a) Members of the board of trustees hold office for terms of six years.

(b) A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner that the office was previously filled.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.004).)

Sec. 825.0041. Board Member Training.

(a) A person who is appointed to and qualifies for office as a member of the board of trustees may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) A training program must provide the person with information regarding:

(1) the legislation that created the retirement system and the system's programs, functions, rules, and budget;

(2) the results of the most recent formal audit of the system;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and

(4) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

(c) A person appointed to the board of trustees is entitled to reimbursement under Section 825.007 for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 33, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 6, effective September 1, 2007.)

Sec. 825.005. Oath of Office.

Before taking office as a trustee, a person shall take the constitutional oath prescribed for officers of the state.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.005).)

Sec. 825.006. Sunset Provision.

The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2019, and every 12th year after that year, are reviewed.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts. 1985, 69th Leg., ch. 479 (S.B. 813), § 2, effective September 1, 1985; am. Acts. 1985, 69th Leg., ch. 729, (H.B. 1585), § 27, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.006); am. Acts 1989, 71st Leg., ch. 580 (H.B. 2437), § 3, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 889 (S.B. 265), § 4, effective September 1, 1989; am. Acts 1991, 72nd Leg., 1st C.S., ch. 17 (H.B. 435), § 1.26, effective November 12, 1991; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 13, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 34, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 7, effective September 1, 2007.)

Sec. 825.0061. Compliance with Sunset Recommendations [Expired].

Expired pursuant to Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 8, effective June 1, 2009.

(Enacted by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 8, effective September 1, 2007.)

Sec. 825.007. Compensation; Expenses.

Trustees serve without compensation but are entitled to reimbursement from the expense account of the retirement system for all necessary expenses that they incur in the performance of official board duties.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.007).)

Sec. 825.008. Voting.

Each trustee is entitled to one vote.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.008).)

Sec. 825.009. Leave for Member Trustees.

(a) A trustee appointed from a slate of members nominated by members of the retirement system under Section 825.002 is entitled to leave with pay from the trustee's public school employer to attend to the official business of the retirement system.

(b) The retirement system may enter into an agreement with the public school employer to adequately compensate the employer for the loss of services of the trustee.

(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 14, effective September 1, 1991.)

Sec. 825.010. Grounds for Removal of Trustee.

(a) It is a ground for removal from the board of trustees that a trustee:

(1) does not have at the time of taking office the qualifications required for the trustee's position;

(2) does not maintain during service on the board the qualifications required for the trustee's position;

(3) violates a prohibition established by Section 825.002(b) or 825.0032 applicable to the trustee;

(4) cannot because of illness or disability discharge the trustee's duties for a substantial part of the term for which the trustee is appointed; or

(5) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of trustees of the ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the board, who shall notify the governor and the attorney general that a potential ground for removal exists.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 14, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 35, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 9, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 786 (H.B. 2120), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 786 (H.B. 2120), § 3 provides:

"(a) This Act applies only to the appointment of a trustee of the board of trustees of the Teacher Retirement System of Texas that occurs on or after the effective date of this Act [September 1, 2011].

(b) A person who is serving as a trustee immediately before the effective date of this Act may complete the trustee's term of office, and the trustee's qualifications for serving as a trustee are governed by the law in effect immediately before the effective date of this Act until the date that trustee's term expires."

SUBCHAPTER B
POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 825.101. General Administration.

The board of trustees is responsible for the general administration and operation of the retirement system. Notwithstanding any other law, the board of trustees has exclusive control over all assets held in trust by the retirement system and all operations funded by trust assets and shall administer the retirement system for the sole and exclusive benefit of the members and participants.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.101); am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 20, effective September 1, 2005.)

Sec. 825.102. Rulemaking.

Subject to the limitations of this subtitle, the board of trustees may adopt rules for:

(1) eligibility for membership;

(2) the administration of the funds of the retirement system; and

(3) the transaction of business of the board.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.102).)

Sec. 825.1025. Negotiated Rulemaking; Alternative Dispute Resolution.

(a) The board of trustees shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of the retirement system's rules; and

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

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

(c) The board of trustees shall designate a trained person to:

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

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

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

(d) The board of trustees shall ensure that the implementation of this section and the negotiated rulemaking procedures and alternative dispute resolution procedures adopted under this section are consistent with the fiduciary responsibility imposed on the board by law.

(Enacted by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 10, effective September 1, 2007.)

Sec. 825.103. Administering System Assets.

(a) The board of trustees is the trustee of all assets of the retirement system.

(b) The board may invest and reinvest the retirement system's assets as authorized by Article XVI, Section 67, of the Texas Constitution.

(c) Except as provided herein, Chapter 412, Labor Code, does not apply to the retirement system. The board of trustees may acquire services described by that chapter in any manner or amount the board considers reasonable. The State Office of Risk Management shall provide services for the retirement system as requested by the retirement system, and the retirement system may use the services of the State Office of Risk Management to obtain insurance and perform risk management and workers' compensation claim services. In accordance with terms mutually agreed upon by both parties, the retirement system shall be subject to the relevant requirements of Chapter 412, Labor Code, only for the specific programs or services the board elects to obtain from or through the State Office of Risk Management. The State Office of Risk Management shall pay to the retirement system any amounts collected on behalf of the system through subrogation of claims, regardless of the budget biennium in which the office receives the amounts. The State Office of Risk Management shall pay these amounts directly to the retirement system instead of to the general revenue fund.

(d) Notwithstanding any other law, the retirement system has exclusive authority over the purchase of goods and services using money other than money appropriated from the general revenue fund, including specifically money from trusts under the administration of the retirement system, and Subtitle D, Title 10, does not apply to the retirement system with respect to that money. The retirement system shall acquire goods or services by procurement methods approved by the board of trustees or the board's designee. For purposes of this subsection, goods and services include all professional and consulting services and utilities as well as supplies, materials, equipment, skilled or unskilled labor, and insurance. The comptroller shall procure goods or services for the retirement system at the request of the retirement system, and the retirement system may use the services of the comptroller in procuring goods or services.

(e) Chapters 2054 and 2055 do not apply to the retirement system. The board of trustees shall control all aspects of information technology and associated resources relating to the retirement system, including computer, data management, and telecommunication operations, procurement of hardware, software, and middleware, and telecommunication equipment and systems, location, operation, and replacement of computers, computer systems, and telecommunication systems, data processing, security, disaster recovery, and storage. The Department of Information Resources shall assist the retirement system at the request of the retirement system, and the retirement system may use any service that is available through that department.

(f) Subchapter C, Chapter 2260, does not apply to the retirement system. The acceptance of benefits by the retirement system under a contract does not waive immunity from suit or immunity from liability.

(g) Notwithstanding any other law, Chapters 2261 and 2262 do not apply to the retirement system. The Contract Advisory Team shall assist the retirement system at the request of the retirement system. The retirement system may use the training program for contract management provided under Chapter 2262.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.103); am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 21, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.63, effective September 1, 2007.)

Sec. 825.104. Designation of Authority to Sign Vouchers.

(a) The board of trustees shall file with the comptroller of public accounts an attested copy of a board resolution that designates the persons authorized to sign vouchers for payment from accounts of the retirement system.

(b) A filed copy of the resolution required by Subsection (a) evidences the comptroller's authority to issue warrants for payment from funds of the retirement system.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.104).)

Sec. 825.105. Adopting Rates and Tables.

The board of trustees shall adopt rates and mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.105).)

Sec. 825.106. Interest Rate for Benefit Increase Reserve Account [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 72(1), effective September 1, 1995.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.106).)

Sec. 825.107. Records of Board of Trustees.

(a) The board of trustees shall keep, in convenient form, data necessary for:

(1) actuarial valuation of the accounts of the retirement system; and

(2) checking the system's expenses.

(b) The board shall keep a record of all of its proceedings.

(c) Except as otherwise provided by this title, records of the board are open to public inspection.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.107).)

Sec. 825.108. Reports.

(a) No later than December 15 of each year, the board of trustees shall publish a report in the Texas Register containing the following information:

(1) the retirement system's fiscal transactions for the preceding fiscal year;

(2) the amount of the system's accumulated cash and securities; and

(3) the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

(b) No later than March 1 of each year, the board of trustees shall publish a report in the Texas Register containing the balance sheet of the retirement system as of August 31 of the preceding fiscal year. The report must contain an actuarial valuation of the system's assets and liabilities, including the extent to which the system's liabilities are unfunded.

(c) A copy of the report required by Subsection (a) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, and the legislative audit committee no later than December 15 of each year.

(d) A copy of the report required by Subsection (b) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, and the legislative audit committee no later than March 1 of each year.

(e) The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the retirement system during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(f) The board shall prepare biennially a complete and detailed written report describing and explaining any use of appropriated amounts, retirement system assets, or other resources for governmental relations, member counseling, or official publications. The report must be filed with the committees of the senate and the house of representatives having jurisdiction over appropriations, with the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and with the Legislative Budget Board at the time the retirement system submits its budget request for the next state fiscal biennium.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.108); am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.06(d), effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 36, effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 45, effective September 1, 2013.)

Sec. 825.109. Correction of Errors.

If an error in the records of the retirement system results in a person's receiving more or less money than the person is entitled to receive under this subtitle, the board of trustees shall correct the error and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.109).)

Sec. 825.110. Determination of Annual Compensation.

The board of trustees shall adopt rules to exclude from annual compensation all or part of salary and wages in the final years of a member's employment that reasonably can be presumed to have been derived from a conversion of fringe benefits, maintenance, or other payments not includable in annual compensation to salary and wages. The board of

trustees shall adopt rules that include a percentage limitation on the amount of increases in annual compensation that may be subject to credit and deposit during a member's final years of employment.

(Enacted by Acts 1981, 67th Leg., 1st C.S., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.110); am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.05(g), effective August 26, 1991; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 22, effective September 1, 2005.)

Sec. 825.111. Management Audit.

(a) The legislative audit committee may contract with an independent and internationally recognized accounting firm with substantial experience in auditing retirement or pension plans to conduct a managerial audit of the retirement system.

(b) The state auditor shall pay the costs of each management audit under this section from money appropriated to the state auditor and approved for that purpose by the legislative audit committee. Not later than the 30th day after the date the retirement system receives a statement of audit costs paid by the state auditor under this subsection, the retirement system shall reimburse the state auditor for the costs from money in the expense account.

(c) The legislative audit committee may determine the frequency of the audits authorized by this section and may determine the programs and operations to be covered by the audits. The accounting firm selected to conduct the audits shall report the results of those audits directly to the committee.

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the state auditor, and the secretary of state for publication in the Texas Register.

(Enacted by Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.06(e), effective August 26, 1991.)

Sec. 825.112. Insurance.

Notwithstanding any other law, the board of trustees may self-insure or purchase any insurance, including fiduciary and liability coverage for trust assets or for the trustees, employees, and agents of the board of trustees, in amounts the board of trustees considers reasonable and prudent.

(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 15, effective November 12, 1991; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 23, effective September 1, 2005.)

Sec. 825.113. Miscellaneous Board Duties.

(a) The executive director or the executive director's designee shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The retirement system shall comply with federal and state laws related to program and facility accessibility. The executive director shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

(g) The board of trustees shall implement a policy requiring the retirement system to use appropriate technological solutions to improve the retirement system's ability to perform its functions. The policy must ensure that the public is able to interact with the retirement system on the Internet.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 15, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 37, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 11, effective September 1, 2007.)

Sec. 825.114. Advisory Committees.

(a) The board of trustees may establish advisory committees as it considers necessary to assist it in

performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account or the retired school employees group insurance fund, as applicable.

(c) Notwithstanding any other law to the contrary, the size and composition of advisory committees created by statute for the retirement system or required by statute to be created by the retirement system are as provided by the statute creating or providing for the creation of the particular committee.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 15, effective September 1, 1993.)

Sec. 825.115. Applicability of Certain Laws.

(a) Except as provided by this section, the board of trustees is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

(b) The board of trustees may in its sole discretion make a final decision on a contested case. Notwithstanding any other law, the board of trustees may in its sole discretion modify, refuse to accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001. The board of trustees shall state in writing the specific reason for its determination and may adopt rules for the implementation of this subsection. The board of trustees may delegate its authority under this subsection to the executive director, and the executive director may delegate the authority to another employee of the retirement system.

(c) The executive director or the executive director's designee under Subsection (b) may refer an appeal relating to the pension plan to the State Office of Administrative Hearings for a hearing or may employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. This subsection prevails over any other law to the extent of any conflict.

(d) The board of trustees or its audit committee may conduct a closed meeting in accordance with Subchapter E, Chapter 551, with the retirement system's internal or external auditors to discuss:

(1) governance, risk management or internal control weaknesses, known or suspected compliance violations or fraud, status of regulatory reviews or investigations, or identification of potential fraud risk areas and audits for the annual internal audit plan; or

(2) the auditors' ability to perform duties in accordance with the Internal Audit Charter, relevant auditing standards, and Chapter 2102.

(e) The board of trustees may conduct a closed meeting in accordance with Subchapter E, Chapter 551, to deliberate or confer with one or more employees, consultants, or legal counsel of the retirement system or a third party regarding a procurement to be awarded by the board of trustees if, before conducting the closed meeting, a majority of the trustees in an open meeting vote that deliberating or conferring in an open meeting would have a detrimental effect on the position of the retirement system in negotiations with a third person. The board of trustees is required to vote or take final action on the procurement in an open meeting.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 38, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 24, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 6, effective June 14, 2013.)

SUBCHAPTER C
OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 825.201. Presiding Officer.

The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.201); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 39, effective September 1, 1995.)

Sec. 825.202. Executive Director.

(a) The board of trustees, by a majority vote of all members, shall appoint an executive director.

(b) The executive director may not be a member of the board of trustees.

(c) To be eligible to serve as the executive director, a person must:

(1) be a citizen of the United States; and

(2) have executive ability and experience to carry out the duties of the office.

(d) The executive director shall recommend to the board actuarial and other services necessary to administer the retirement system.

(e) Annually, the executive director shall prepare an itemized expense budget for the following fiscal year and shall submit the budget to the board for review and adoption.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.202); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 16, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 1055 (H.B. 2190), § 1, effective June 15, 2007.)

Sec. 825.203. Legal Representation.

(a) The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

(b) The board may not employ outside legal counsel to provide legal services to the retirement system except as provided by this section and Section 402.0212, regardless of the source of funds to be used to pay the outside counsel. For purposes of this section, "legal services" includes services provided by an attorney regarding ethics and fiduciary responsibilities.

(c) The attorney general shall timely act on a request to approve a contract for outside legal services under Section 402.0212. If the attorney general denies the board's request for approval of a contract for outside legal services:

(1) the attorney general shall provide the board with the reason for the denial; and

(2) the board may select alternative outside legal counsel, subject to approval by the attorney general in accordance with this section and Section 402.0212.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.203); am. Acts 2009, 81st Leg., ch. 906 (H.B. 1259), § 1, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 906 (H.B. 1259), § 2 provides: "Section 825.203(c), Government Code, as added by this Act, applies only to a request to approve a contract for outside legal services submitted by the Teacher Retirement System of Texas on or after the effective date of this Act [September 1, 2009]. A request submitted before the effective date of this Act is governed by the law in effect on the date the request was submitted and that law is continued in effect for that purpose."

Sec. 825.204. Medical Board.

(a) The board of trustees shall appoint a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in this state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the board of trustees its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding findings it makes in assisting the executive director or board of trustees under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.204); am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 7, effective June 14, 2013.)

Sec. 825.205. Other Physicians.

The board of trustees may employ physicians in addition to the medical board to report on special cases.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.205).)

Sec. 825.206. Actuary.

(a) The board of trustees shall designate an actuary as its technical adviser.

(b) At least once every five years the actuary, on authorization of the board of trustees, shall:

(1) investigate the mortality, service, and compensation experience of the members and beneficiaries of the retirement system;

(2) on the basis of the investigation made under Subdivision (1), recommend to the board of trustees tables and rates that are required; and

(3) on the basis of tables and rates adopted by the board of trustees under Section 825.105, eval-

uate the assets and liabilities of the retirement system.

(c) The board of trustees annually shall evaluate the performance of the actuary during the previous year. At least once every four years, the board shall redesignate its actuary after advertising for and reviewing proposals from providers of actuarial services.

(d) Each actuarial experience study must include a review of all actuarial assumptions in light of relevant experience, important trends, and economic projections. Interrelated actuarial assumptions shall be reviewed carefully to ensure that adjustments in one assumption are reflected appropriately in related assumptions.

(e) Each actuarial valuation must include a detailed analysis comparing experience factors to their actuarial assumptions. The analysis shall be developed and reported to identify significant variations in actual experience from what was assumed. A material variation should be the focus of an actuarial experience study.

(f) An actuarial audit shall be performed in conjunction with an actuarial experience study or at least once every five years. The audit must include:

(1) an analysis of the appropriateness of the actuarial assumptions;

(2) a review of the assumptions and methodology for compliance with the funding standards;

(3) verification of demographic data; and

(4) confirmation of the valuation results, including a determination of actuarial accrued liability, normal cost, expected employee contributions, and the effects of any recent legislation.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.206); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 17, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 40, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 22, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 15, effective September 1, 2011.)

Sec. 825.207. Comptroller.

(a) Except as provided by Section 825.302 or 825.303 or by Subsection (e) of this section, the comptroller is the custodian of all securities and cash of the retirement system, including securities held in the name of a nominee of the retirement system.

(b) The comptroller shall pay money from the accounts of the retirement system on warrants drawn by the comptroller and authorized by vouchers signed by the executive director or other persons designated by the board of trustees.

(c) The comptroller annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the comptroller's custody.

(d) The comptroller is not responsible, under either civil or criminal law, for any action or losses with respect to assets of the retirement system while the assets are in the custody of a commercial bank as provided by Section 825.302 or 825.303 or by Subsection (e) of this section.

(e) The board of trustees may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of all or part of the retirement system's assets.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 30, effective November 10, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.207); am. Acts 1989, 71st Leg., ch. 251 (H.B. 2606), § 5, effective August 28, 1989; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 18, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 23, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.51, effective September 1, 1997.)

Sec. 825.208. Compensation of Employees; Payment of Expenses.

(a) Notwithstanding any other law, the board of trustees shall approve the rate of compensation of all persons it employs and the amounts necessary for other expenses for operation of the retirement system. If expenditures are paid from money appropriated from the general revenue fund rather than from trust funds, the rates and amounts may not exceed those paid for similar services for the state.

(b) The retirement system is exempt from Chapter 660 and Subchapter K, Chapter 659, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties.

(c) The board of trustees may compensate employees of the retirement system, whether subject to or exempt from the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), at the rate equal to the employees' regular rate of pay for work performed on a legal holiday or for other compensatory time accrued, when taking compensatory time off would be disruptive to the system's normal business functions.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.208); am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 25, effective September 1, 2005.)

Sec. 825.209. Surety Bonds [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 285 (H.B. 2376), § 31(18), effective September 1, 2003.
(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.209); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 19, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 24, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.52, effective September 1, 1997.)

Sec. 825.210. Interest in Investment Profits Prohibited.

Except for an interest in the retirement assets as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains from investments made with the system's assets and may not receive any compensation for service other than designated salary and authorized expenses.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.210).)

Sec. 825.211. Certain Interests in Loans, Investments, or Contracts Prohibited [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(1), effective June 14, 2013.
(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 20, effective September 1, 1993.)

Sec. 825.212. Retirement System Ethics Policy.

(a) The board of trustees shall adopt a code or codes of ethics, including standards of ethical conduct and disclosure requirements, applicable to:

(1) trustees;

(2) employees; and

(3) any contractors or any categories of contractors that the board of trustees determines provide:

(A) advice or opinion to the retirement system that is the basis for a significant decision or action by or on behalf of the retirement system; or

(B) significant services to the retirement system that relate to the administration and operation of the retirement system.

(b) In any code of ethics adopted under this section, the board of trustees may:

(1) impose enhanced disclosure requirements on employees that the board of trustees determines exercise significant fiduciary authority;

(2) impose disclosure requirements on contractors for expenditures on behalf of retirement system trustees or employees in amounts equal to or greater than a minimum amount considered material by the board of trustees; or

(3) address topics related to ethical conduct, including prohibited conduct, conflicts of interest, waivers of conflicts of interest, remedies for conflicts of interest, and sanctions.

(c) This chapter modifies the common law of conflict of interests as applied to trustees, employees, and contracts of the retirement system to the extent that violations of the common law of conflict of interests do not void retirement system contracts. The retirement system shall by rule or policy adopt procedures for disclosing and curing violations of the common law of conflict of interests and any such rule or policy may specify time periods in which disclosures and cures must be completed.

(d) to (h) [Repealed by Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(2), effective June 14, 2013.]
(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 20, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76, §§ 5.95(43), (79), effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), §§ 8, 23(2), effective June 14, 2013.)

Sec. 825.213. Employment Practices.

(a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the retirement system. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without

regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

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

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (c), and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 20, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 41, effective September 1, 1995.)

Sec. 825.214. Financial Auditor.

A person employed to perform a financial audit of the retirement system must be selected by and report to the board of trustees.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 20, effective September 1, 1993.)

Sec. 825.215. Advocacy Prohibited.

(a) An employee of the retirement system may not advocate increased benefits or engage in activities to advocate or influence legislative action or inaction. Advocacy or activity of this nature is grounds for dismissal of an employee.

(b) This section does not prohibit comments by an employee of the retirement system on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 42, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 16, effective September 1, 2011.)

SUBCHAPTER D
MANAGEMENT OF ASSETS

Sec. 825.301. Investment of Assets.

(a) The board of trustees shall invest and reinvest assets of the retirement system without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction or currency exchange risk in purchasing, selling, or holding securities is considered to be a security. Investment decisions are subject to the standard provided in the Texas Trust Code by Section 117.004(b), Property Code.

(a-1) **[Expires September 1, 2019]** This subsection expires September 1, 2019, and applies to the investment and reinvestment of assets of the retirement system only if the investment or reinvestment is made before September 1, 2019. In addition to any investment or reinvestment authorized by Subsection (a), the board of trustees may buy and sell the following, only to efficiently manage and reduce the risk of the overall investment portfolio:

(1) futures contracts;

(2) options;

(3) options on futures contracts;

(4) forward contracts;

(5) swap contracts, including swap contracts with embedded options;

(6) any instrument or contract intended to manage transaction or currency exchange risk in purchasing, selling, or holding investments; and

(7) any other instrument commonly used by institutional investors to manage institutional investment portfolios.

(a-2) The board of trustees may delegate investment authority and contract with one or more private professional investment managers for investment and management of not more than 30 percent of the total assets held in trust by the retirement system. In a contract made under this subsection, the board of trustees shall specify any applicable policies, requirements, or restrictions, including criteria for determining the quality of investments or

the use of standard rating services, that the board of trustees adopts for investments of the system. The board of trustees may not contract under this subsection for investment and management services to be performed on or after September 1, 2019.

(a-3) For the purpose of carrying out policy decisions made by the board of trustees, the board may delegate investment authority with respect to assets held by the retirement system to the executive director or the staff of the retirement system.

(b) In addition to the board's authority under Subsection (a-2), the board of trustees may contract with private professional investment managers, advisors, and consultants to assist and advise the board and the staff of the retirement system in investing the assets of the retirement system.

(b-1) By accepting a delegation of investment authority under Subsection (a-2) or an engagement to assist or advise the board or the staff of the retirement system under Subsection (b), a professional investment manager, advisor, or consultant submits to the jurisdiction of the courts of this state in all proceedings arising from or related to performance of the delegated authority or engagement. An action relating to services rendered under this section shall be brought only in a state district court sitting in Travis County, Texas. Chapter 2260 does not apply to a contract under Subsection (a-2) or (b). This subsection does not waive any immunity of the retirement system.

(c) The board of trustees shall employ one or more performance measurement services to evaluate and analyze the investment results of those assets of the retirement system for which reliable and appropriate measurement methodology and procedures exist. Each service shall compare investment results with the written investment objectives developed by the board, and shall also compare the investment of the assets being evaluated and analyzed with the investment of other public funds.

(d) The board of trustees may invest assets of the retirement system in obligations issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation.

(e) The board of trustees shall develop written investment objectives concerning the investment of the assets of the retirement system. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1983, 68th Leg., ch. 925 (H.B. 1699), § 4, effective August 29, 1983; am. Acts 1983, 68th Leg., ch. 926 (H.B. 1701), § 4, effective August 29, 1983; am. Acts 1985, 69th Leg., ch. 542 (H.B. 1252), § 6, effective August 26, 1985; am. Acts 1987, 70th Leg., ch. 167 (S.B. 892), § 5.01(a)(64), effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.301); am. Acts 1991, 72nd Leg., ch. 408 (S.B. 679), § 3, effective August 26, 1991; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 25, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 17, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1103 (H.B. 2204), § 11, effective January 1, 2004; am. Acts 2007, 80th Leg., ch. 124 (S.B. 1447), § 1, effective May 17, 2007; am. Acts 2011, 82nd Leg., ch. 492 (H.B. 1061), § 1, effective June 17, 2011.)

Sec. 825.3011. Certain Consultations Concerning Investments.

(a) In this section, "private investment fund," "reinvestment," and "restricted securities" have the meanings assigned by Section 552.143.

(b) Chapter 551 does not require the board of trustees to confer with one or more employees, consultants, or legal counsel of the retirement system or with a third party, including representatives of an issuer of restricted securities or a private investment fund, in an open meeting if the only purpose of the conference is to receive information from or question the employees, consultants, or legal counsel of the retirement system or the third party relating to:

(1) an investment or a potential investment by the board of trustees in a private investment fund; or

(2) the purchase, holding, or disposal of restricted securities or a private investment fund's investment in restricted securities if, under Section 552.143, the information discussed would be confidential and excepted from the requirements of Section 552.021 if the information was included in the records of a governmental body.

(c) This section applies notwithstanding Section 825.115.

(Enacted by Acts 2007, 80th Leg., ch. 124 (S.B. 1447), § 2, effective May 17, 2007.)

Sec. 825.3012. Investment in Certain Hedge Funds Limited.

(a) For the purposes of this section, "hedge fund" means a private investment vehicle that:

(1) is not registered as an investment company;

(2) issues securities only to accredited investors or qualified purchasers under an exemption from registration; and

(3) engages primarily in the strategic trading of securities and other financial instruments.

(b) Notwithstanding any provision of Section 825.301, not more than five percent of the value of the total investment portfolio of the retirement system may be invested in hedge funds.

(b-1) **[Expires September 1, 2019]** Notwithstanding Subsection (b) of this section and any provision of Section 825.301, before September 1, 2019, not more than 10 percent of the value of the total investment portfolio of the retirement system may be invested in hedge funds. This subsection expires September 1, 2019.

(c) The percentage of the value described by Subsection (b) is determined by reference to the value of the total investment portfolio of the retirement system as of the date the retirement system executes the subscription documents for each hedge fund investment.

(Enacted by Acts 2007, 80th Leg., ch. 124 (S.B. 1447), § 3, effective May 17, 2007; am. Acts 2011, 82nd Leg., ch. 492 (H.B. 1061), § 2, effective June 17, 2011.)

Sec. 825.302. Custody and Investment of Assets Pending Transactions.

The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize such custodian to invest the cash so held in such short-term securities as the board of trustees determines.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.3011); am. Acts 1989, 71st Leg., ch. 251 (H.B. 2606), § 6, effective August 28, 1989.)

Sec. 825.3021. Appraisal and Sale of Real Property.

If the retirement system acquires, through foreclosure or conveyance of deed in lieu of foreclosure, real property assets or stock in an entity the major asset of which is real property, the retirement system shall, not later than the 90th day after the date of acquisition:

(1) have the real property appraised by an appraiser who is not a trustee or employee of the retirement system and who has received MAI or SRA;

(2) acquire a foreclosure endorsement to the mortgagee's title insurance policy; and

(3) if the real property contains improvements, employ an individual who is not, or a property management company that is not owned by, a trustee or employee of the retirement system and who is, or that employs, a CPM, CAM, or RAM to manage the property.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 21, effective September 1, 1993.)

Sec. 825.303. Securities Custody and Securities Lending.

(a) The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules adopted by the board of trustees and as required by this section. The retirement system may select one or more commercial banks, depository trust companies, or other entities to act independently of the custodian and lend the securities under board rules and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system fully indemnifying the retirement system against loss resulting from borrower default or the failure of the bank or brokerage firm to properly execute the responsibilities of the bank or brokerage firm under the applicable securities lending agreement;

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or government securities eligible for book entry in either the Federal Reserve System or the Participants Trust Company, in an amount equal to not less than 100 percent of the market value, from time to time, of the loaned securities; and

(5) comply with guidelines the board of trustees may adopt concerning the investment of cash collateral, borrower limits, and other items.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.3012); am. Acts 1989, 71st Leg., ch. 251 (H.B. 2606), § 7, effective August 28, 1989; am.

Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 22, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), §§ 18, 19, effective September 1, 1999.)

Sec. 825.304. Nominee to Hold Securities.

(a) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees.

(b) The records and all relevant reports or accounts of the retirement system must show the ownership interest of the retirement system in these assets and the facts regarding the system's holdings.

(c) A trustee or employee of the retirement system shall have no personal economic interest in any entity listed in Subsection (a), but shall undertake such action and duties with respect to these entities as the board of trustees determines to be in the interest of the retirement system. This subsection does not prohibit:

(1) an interest in the assets as a member of the retirement system;

(2) the right to receive expense reimbursements at the same rate that the board member or employee would have received as a board member or employee; and

(3) such indemnification as is authorized by the board of trustees.

(d) The records of an agent, nominee, or other entity that are maintained by the retirement system are subject to audit by the state auditor.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.3013); am. Acts 1989, 71st Leg., ch. 251 (H.B. 2606), § 8, effective August 28, 1989.)

Sec. 825.305. Available Cash.

The board of trustees may keep on deposit with the comptroller available cash not exceeding 10 percent of the total assets of the retirement system, to pay annuity and other disbursements.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.302); am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.53, effective September 1, 1997.)

Sec. 825.306. Crediting System Assets.

The assets of the retirement system shall be credited, according to the purpose for which they are held, to one of the following accounts:

(1) member savings account;

(2) state contribution account;

(3) retired reserve account;

(4) interest account;

(5) expense account; or

(6) deferred retirement option account.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.303); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 43, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 26, effective September 1, 1997.)

Sec. 825.307. Member Savings Account.

(a) The retirement system shall deposit in a member's individual account in the member savings account:

(1) the amount of contributions to the retirement system that is deducted from the member's compensation;

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

(3) the portion of a deposit to reinstate service credit previously canceled that represents the amount withdrawn or refunded;

(4) the portion of a deposit to establish military service credit required by Section 823.302(c);

(5) the portion of a deposit to establish equivalent membership service credit required by Section 823.401(d), 823.402(e)(1) or (e)(2), or 823.404(c); and

(6) interest earned on money in the account as provided by Subsections (b) and (c) and Section 825.313(c).

(b) **[2 Versions: Effective Until September 1, 2014]** Interest on a member's contribution is earned monthly and computed at the rate of five percent a year. Except as provided by Subsection (c), interest is computed based on the mean balance in the member's account during that fiscal year and shall be credited on August 31 of each year.

(b) **[2 Versions: Effective September 1, 2014]** Interest on a member's contribution is earned monthly and computed at the rate of two percent a year. Except as provided by Subsection (c), interest is computed based on the mean balance in the member's account during that fiscal year and shall be credited on August 31 of each year.

(c) If a person's membership in the retirement system is terminated during a fiscal year, the interest on the member's account is computed based on the mean balance in the account from September 1 of the fiscal year until:

(1) the last day of the month that preceded the month in which the membership termination occurred if termination was caused by the member's death or the withdrawal of contributions; or

(2) the effective date of retirement if membership termination was caused by retirement.

(d) Accumulated contributions in an individual's account on the date that the individual's membership in the retirement system is terminated do not earn interest after that date.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.304); am. Acts 1989, 71st Leg., ch. 835 (S.B. 490), § 8, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.05(h), effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 785 (H.B. 2118), § 2, effective August 30, 1993; am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 3, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1122 (H.B. 3660), § 3, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 15, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1312 (H.B. 3169), § 1, effective January 1, 2009; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 26, effective January 1, 2009; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 4, effective September 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 13 provides: "Section 824.807 and Subsection (b), Section 825.307, Government Code, as amended by this Act, apply only to interest accrued on or after the effective date of this Act [September 1, 2014]. Interest accrued before the effective date of this Act is governed by the law in effect on the date the interest accrued, and that law is continued in effect for that purpose."

Sec. 825.308. State Contribution Account.

The retirement system shall deposit in the state contribution account:

(1) all state contributions to the retirement system required by Section 825.404;

(2) amounts from the interest account as provided by Section 825.313(b)(2);

(3) retirement annuities waived or forfeited in accordance with Section 824.601 or 824.004;

(4) fees collected under Section 825.403(h);

(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 823.501;

(6) the portion of a deposit required by Section 823.302 to establish military service credit that represents a fee; and

(7) employer contributions required under Section 825.4092.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., ch. 18 (H.B. 126), § 32, effective November 10, 1981; am. Acts 1985, 69th Leg., 1st C.S., ch. 832 (S.B. 1093), § 7, effective June 15, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.305); am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 16, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 27, effective September 1, 2005.)

Sec. 825.309. Retired Reserve Account.

(a) The retirement system shall transfer to the retired reserve account:

(1) from the member savings account, an amount equal to the accumulated contributions in a member's individual account when the member retires or when the retirement system approves the payment of any benefit authorized under this subtitle on the member's retirement or death;

(2) from the state contribution account, an amount certified by the actuary or determined under actuarial tables adopted by the board of trustees pursuant to Section 825.105 as necessary to provide for the payment of the benefit as it becomes due; and

(3) from the interest account, the amount required by Section 825.313(b)(1).

(b) The retirement system shall use money in the retired reserve account to pay all retirement annuities and all death or survivor benefits, including postretirement benefit increases and other adjustments to annuities.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1987, 70th Leg., ch. 61 (S.B. 630), § 8, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.306); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 44, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 4, effective September 1, 1999.)

Sec. 825.310. Benefit Increase Reserve Account [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 72(2), effective September 1, 1995.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.307).)

Sec. 825.311. Interest Account.

In the interest account the retirement system shall:

(1) deposit all income, interest, and dividends from deposits and investments of assets of the retirement system;

(2) accumulate net capital gains and losses resulting from the sale, call, maturity, conversion, or recognition of changes in carrying values of investments of the retirement system; and

(3) accumulate net income or losses from other investments.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.308); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 23, effective September 1, 1993.)

Sec. 825.312. Expense Account.

(a) The retirement system shall deposit in the expense account:

(1) money transferred from the interest account under Section 825.313(d) and

(2) money received from the Texas Public School Employees Group Insurance Program for service performed for the program by the retirement system.

(b) The retirement system shall pay from the account all administrative expenses of the retirement system that are required to perform the fiduciary duties of the board.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 33, effective November 10, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.309); am. Acts 1993, 73rd Leg., ch. 785 (H.B. 2118), § 3, effective August 30, 1993; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 24, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 45, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 5, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 9, effective June 14, 2013.)

Sec. 825.3121. Deferred Retirement Option Account.

(a) The retirement system shall deposit in the deferred retirement option account the amounts required to be deposited in the account by Section 824.804(a) and interest as required by Section 824.807.

(b) The retirement system shall pay from the account all benefits accrued during participation in the deferred retirement option plan.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 27, effective September 1, 1997.)

Sec. 825.313. Transfers from Interest Account.

(a) Annually, the retirement system shall transfer from the interest account to the state contribution account amounts accumulated under Section 825.311(2).

(b) On August 31 of each year, the retirement system shall make the following transfers from the interest account:

(1) to the retired reserve account, an amount equal to 4 ¾ percent of the average balance of the retired reserve account for that fiscal year or, if the transfer is authorized by resolution of the board, an amount computed at a greater rate if the actuary recommends the greater rate to adequately fund the retired reserve account; and

(2) to the state contribution account, the amount remaining in the interest account after the other transfers required or authorized by this section are made.

(c) On August 31 of each year, the retirement system shall transfer from the interest account to the member savings account an amount computed under Section 825.307(b) unless membership is terminated in that fiscal year. If membership is terminated during the fiscal year, the retirement system shall transfer from the interest account to the member savings account an amount computed under Section 825.307(c).

(d) The board of trustees, by resolution recorded in its minutes, may transfer from the interest account to the expense account an amount necessary to cover the expenses of the retirement system for the fiscal year that are required to perform the fiduciary duties of the board.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.310); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 45, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 6, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), §§ 10, 11, effective June 14, 2013.)

Sec. 825.314. Use of State Contributions.

The retirement system shall use all assets contributed by the state to pay benefits authorized by this subtitle.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.311); am. Acts 1995, 74th Leg., ch.

555 (S.B. 9), § 45, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 7, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 12, effective June 14, 2013.)

Sec. 825.315. Prohibited Use of Assets.

(a) Assets of the retirement system may not be used to advocate or influence the outcome of an election or the passage or defeat of any legislative measure. This prohibition may not be construed to prevent any trustee or employee from furnishing information in the hands of the trustee or employee that is not considered confidential under law to a member or committee of the legislature, to any other state officer or employee, or to any private citizen, at the request of the person or entity to whom the information is furnished. This prohibition does not apply to the incidental use of retirement system facilities by groups of members or retirees or by officers or employees of state agencies.

(b) This section does not prohibit the use of system assets by an employee of the retirement system to comment on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 46, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 17, effective September 1, 2011.)

SUBCHAPTER E
COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS

Sec. 825.401. Collection of Membership Fees [Repealed].

Repealed by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 72(3), effective September 1, 1995.

(Am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.401).)

Sec. 825.402. Rate of Member Contributions.

The rate of contributions for each member of the retirement system is:

(1) five percent of the member's annual compensation or $180, whichever is less, for service rendered after August 31, 1937, and before September 1, 1957;

(2) six percent of the first $8,400 of the member's annual compensation for service rendered after August 31, 1957, and before September 1, 1969;

(3) six percent of the member's annual compensation for service rendered after August 31, 1969, and before the first day of the 1977-78 school year;

(4) 6.65 percent of the member's annual compensation for service rendered after the last day of the period described by Subdivision (3) and before September 1, 1985;

(5) 6.4 percent of the member's annual compensation for service rendered after August 31, 1985, and before September 1, 2014;

(6) 6.7 percent of the member's annual compensation for service rendered after August 31, 2014, and before September 1, 2015;

(7) 7.2 percent of the member's annual compensation for service rendered after August 31, 2015, and before September 1, 2016;

(8) 7.7 percent of the member's annual compensation for service rendered after August 31, 2016, and before September 1, 2017; and

(9) for service rendered on or after September 1, 2017, the lesser of:

(A) 7.7 percent of the member's annual compensation; or

(B) a percentage of the member's annual compensation equal to 7.7 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the service relates is less than the state contribution rate established for the 2015 fiscal year.

(b) to (d) [Repealed by Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(3), effective June 14, 2013 and deleted by Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 5, effective September 1, 2013.]

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.402); am. Acts 2007, 80th Leg., ch. 1389 (S.B. 1846), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(3), effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 5, effective September 1, 2013.)

Sec. 825.403. Collection of Member's Contributions.

(a) **[2 Versions: Effective Until September 1, 2014]** Each payroll period, each employer shall deduct from the compensation of each member employed by the employer an amount equal to 6.4 percent of the member's compensation for that period.

(a) **[2 Versions: Effective September 1, 2014]** Each payroll period, each employer shall deduct from the compensation of each member employed by the employer the amount required by Section 825.402.

(b) Each employer or the employer's designated disbursing officer, at a time and in a form prescribed by the retirement system, shall send to the executive director all deductions and a certification of earnings of each member employed by the employer. An employer shall use electronic fund transfer to send deductions required by this section or shall certify to the retirement system either that the employer is unable to establish a qualifying account at a financial institution or that payment by electronic fund transfer would be impractical or more costly than payment by paper check.

(c) The executive director shall deposit with the comptroller all deductions received by the executive director.

(d) After the deductions are deposited with the comptroller, the money shall be used as provided by this subtitle.

(e) The county superintendent or ex officio county superintendent, in accordance with this section, shall collect contributions of members employed in common school or other school districts under the superintendent's jurisdiction.

(f) Employers shall make the deductions required by this section even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(g) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payment period.

(h) If deductions were previously required but not paid, the retirement system may not provide benefits based on the service or compensation unless the deposits required by this section have been fully paid. The person's employer at the time the unreported service was rendered or compensation was paid must verify the service or compensation as required by Subsection (j) and the person must submit the verification to the retirement system not later than five years after the end of the school year in which the service was rendered or compensation was paid. To establish the service or compensation credit, the person must deposit with the retirement system the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of service or compensation credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees. The board of trustees shall:

(1) prescribe terms for payments under this subsection; and

(2) credit the person for prior service to which the person is entitled under this subtitle.

(i) Contributions required by Section 825.402 shall be deducted from the funds regularly appropriated by the state for the current maintenance of any educational institution supported in whole or part by the state and not otherwise covered by this section.

(j) If deductions were previously required but not paid, proof of service satisfactory to the retirement system must be made before service credit is granted or payment for the credit is required. Proof of service is sufficient if the person's employer documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. An affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. The retirement system may audit records used for documentation under this subsection. A person who does not obtain proof of service as required by this section may not establish the service or compensation credit.

(k) Reporting entities and the commissioner of education shall inform the retirement system of changes in status of a school district or charter school that affect the reporting responsibilities of the entity.

(*l*) The commissioner of education shall notify the retirement system in writing:

(1) of the revocation, denial of renewal, or surrender of a charter issued by the State Board of Education, within 10 business days of the date of the event;

(2) that an open-enrollment charter school or other reporting entity no longer is receiving state funds, within 10 business days of the date on which funding ceases; and

(3) when an open-enrollment charter school or other reporting entity resumes receiving state funds, within 10 business days of the date on which funding resumes.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1985, 69th Leg., ch. 228 (S.B. 713), § 3, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.403); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 25, effective September 1, 1993; am. Acts 1995, 74th

Leg., ch. 555 (S.B. 9), § 47, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.54, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 28, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 456 (S.B. 1668), § 6, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 6, effective September 1, 2014.)

Sec. 825.4035. [Effective September 1, 2014] Employer Contributions for Certain Employed Members for Whom the Employer Is Not Making Contributions to the Federal Old-Age, Survivors, and Disability Insurance Program.

(a) This section:

(1) applies to an employer who reports to the retirement system under Section 825.403 the employment of a member for whom the employer is not making contributions to the federal Old-Age, Survivors, and Disability Insurance program; and

(2) does not apply to an employer that is an institution of higher education.

(b) Except as provided in Subsection (c), for each member the employer reports to the retirement system and for whom the employer is not making contributions to the federal Old-Age, Survivors, and Disability Insurance program, the employer shall contribute monthly to the retirement system for each such member:

(1) for the period beginning with the report month of September 2014 and ending with the report month of August 2015, an amount equal to 1.5 percent of the member's compensation; and

(2) beginning with the report month for September 2015, an amount equal to the lesser of:

(A) 1.5 percent of the member's compensation; or

(B) a percentage of the member's compensation equal to 1.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for the 2015 fiscal year.

(c) If a member is entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, or if a member would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, the employer shall, in addition to any contributions required under Section 825.405, contribute monthly to the retirement system for each such member:

(1) for the period beginning with the report month of September 2014 and ending with the report month of August 2015, an amount equal to 1.5 percent of the statutory minimum salary determined under Section 825.405(b); and

(2) beginning with the report month for September 2015, an amount equal to the lesser of:

(A) 1.5 percent of the statutory minimum salary determined under Section 825.405(b); or

(B) a percentage of the statutory minimum salary determined under Section 825.405(b) equal to 1.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the report month relates is less than the state contribution rate established for the 2015 fiscal year.

(d) Contributions under this section:

(1) are subject to the requirements of Section 825.408; and

(2) must be used to fund the normal cost of the retirement system.

(Enacted by Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 7, effective September 1, 2014.)

Sec. 825.404. Collection of State Contributions.

(a) **[2 Versions: Effective Until September 1, 2014]** Except as provided by Subsection (a-1), during each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year. The amount of the state contribution made under this section may not be less than the amount contributed by members during that fiscal year in accordance with Section 825.402.

(a) **[2 Versions: Effective September 1, 2014]** Except as provided by Subsection (a-1), during each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

(a-1) In computing the amount owed by the state under Subsection (a), the compensation of members who are employed by public junior colleges or public junior college districts shall be included in the aggregate annual compensation as follows:

(1) 50 percent of the eligible creditable compensation of employees who:

(A) otherwise are eligible for membership in the retirement system; and

(B) are instructional or administrative employees whose salaries may be fully paid from funds appropriated under the General Appropriations Act, regardless of whether such sala-

ries are actually paid from appropriated funds; and

(2) none of the eligible creditable compensation of all other employees who:

(A) do not meet the requirements of Subdivision (1)(B) but are otherwise eligible for membership in the retirement system; or

(B) cannot be included as a qualifying employee under Subdivision (1) by application of Subsection (b-1).

(b) Before November 2 of each even-numbered year, the board of trustees, in coordination with the Legislative Budget Board, shall certify to the comptroller of public accounts for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium. For qualifying employees under Subsection (a-1)(1), the board of trustees shall include only the amount payable by the state under Subsection (a-1)(1) in determining the amount to be certified.

(b-1) In determining the amount described by Subsection (b), the number of qualifying employees under Subsection (a-1)(1) whose compensation may be included for each public junior college or public junior college district in each biennium may not be adjusted in a proportion greater than the change in student enrollment at each college during the reporting period except that a college that experiences a decline in student enrollment may petition the Legislative Budget Board to maintain the number of eligible employees up to 98 percent of the level of the prior biennium.

(c) The amount certified under Subsection (b) shall be included in the state budget that the governor submits to the legislature.

(d) [Repealed by Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(4), effective June 14, 2013.]

(e) All money appropriated by the state to the retirement system shall be paid to the state contribution account in equal monthly installments as provided by Section 403.093(c).

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (S.B. 74), § 34, effective November 10, 1981; am. Acts 1985, 69th Leg., ch. 228 (S.B. 713), § 4, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 61 (S.B. 630), § 10, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 16 (H.B. 1279), § 6, effective August 31, 1989; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.404); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 48, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 49, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), § 17.01, effective August 29, 2005; am. Acts 2007, 80th Leg., ch. 1389 (S.B. 1846), § 2, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 812 (S.B. 1812), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), §§ 13, 14, 23(4), effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 8, effective September 1, 2014.)

Sec. 825.4041. Employer Payments.

(a) For purposes of this section, a new member is a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) During each fiscal year, an employer shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, as described by Subsection (a), during their first 90 days of employment.

(c) On a monthly basis an employer shall:

(1) report to the retirement system, in a form prescribed by the system, a certification of the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments due under this section for the payroll periods; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

(d) A person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as a member starting September 1, 2005. For the purpose of this section, the member shall be treated as a new member for the remainder of the waiting period.

(e) The employer must remit the amount required under this section to the retirement system at the same time the employer remits the member's contribution. In computing the amount required to be remitted, the employer shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) At the end of each school year, the retirement system shall certify to the commissioner of education and to the state auditor:

(1) the name of each employer that has failed to remit, within the period required by Section

825.408, all payments required under this section for the school year; and

(2) the amounts of the unpaid required payments.

(g) If the commissioner of education or the state auditor receives a certification under Subsection (f), the commissioner or the state auditor shall direct the comptroller to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(h) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

(Enacted by Acts 2005, 79th Leg., ch. 899 (S.B. 1863), § 19.01, effective September 1, 2005; enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 29, effective September 1, 2005.)

Sec. 825.405. Contributions Based on Compensation Above Statutory Minimum.

(a) For members entitled to the minimum salary for certain school personnel under Section 21.402, Education Code, and for members who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, the employing district shall pay the state's contribution on the portion of the member's salary that exceeds the statutory minimum salary.

(b) For purposes of this section:

(1) the statutory minimum salary for certain school personnel under Section 21.402, Education Code, is the salary provided by that section multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed; and

(2) the statutory minimum salary for members who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, is a minimum salary computed in the same manner as the minimum salary for certain school personnel under Section 21.402, Education Code, multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed.

(b-1) [Expired pursuant to Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 37, effective September 1, 1996.]

(c) Monthly, employers shall:

(1) report to the retirement system in a form prescribed by the system a certification of the total amount of salary paid above the statutory minimum salary and the total amount of employer contributions due under this section for the payroll period; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable minimum salary as well as aggregate annual compensation.

(d) The employer must remit the amount required under this section to the executive director at the same time that the employer remits the member's contribution.

(e) After the end of each school year, the retirement system shall certify to the commissioner of education:

(1) the names of any employing districts that have failed to remit, within the period required by Section 825.408, all contributions required under this section for the school year; and

(2) the amounts of the unpaid contributions.

(f) If the commissioner of education receives a certification under Subsection (e), the commissioner shall direct the comptroller of public accounts to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the school district. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(g) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the system.

(h) This section does not apply to state contributions for members employed by a school district in a school year if the district's effective tax rate for maintenance and operation revenues for the tax year that ended in the preceding school year equals or exceeds 125 percent of the statewide average effective tax rate for school district maintenance and operation revenues for that tax year. For a tax year, the statewide average effective tax rate for school district maintenance and operation revenues is the tax rate that, if applied to the statewide total appraised value of taxable property for every school district in the state determined under Section 403.302, would produce an amount equal to the statewide total amount of maintenance and operation taxes imposed in the tax year for every school district in the state.

(i) Not later than the seventh day after the final date the comptroller certifies to the commissioner of education changes to the property value study con-

ducted under Subchapter M, Chapter 403, the comptroller shall certify to the Teacher Retirement System of Texas:

(1) the effective tax rate for school district maintenance and operation revenues for each school district in the state for the immediately preceding tax year; and

(2) the statewide average effective tax rate for school district maintenance and operation revenues for the immediately preceding tax year.

(Enacted by Acts 1984, 68th Leg., 2nd C.S., ch. 28 (H.B. 72), § 19, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.4041); am. Acts 1991, 72nd Leg., ch. 722 (H.B. 2482), §§ 1—3, effective September 1, 1991; am. Acts 1991, 72nd Leg., 2nd C.S., ch. 6 (S.B. 45), § 65, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 347 (S.B. 7), § 8.19, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 26, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 37, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 579 (S.B. 642), § 3, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.23, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 20, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 82, effective September 1, 2009.)

Sec. 825.406. Collection of Contributions from Federal or Private Sources; Offense; Penalty.

(a) If an employer applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the employer shall apply for any legally available money to pay state contributions required by Section 825.404 or 830.201.

(b) When an employer receives money for state contributions from an application made in accordance with Subsection (a), the employer shall immediately send the money to the retirement system for deposit in the state contribution account.

(c) Monthly, employers shall:

(1) report to the retirement system in a form prescribed by the system a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions for the employees; and

(2) retain the following information:

(A) the name of each employee paid in whole or part from a grant;

(B) the source of the grant;

(C) the amount of the employee's salary paid from the grant;

(D) the amount of the money provided by the grant for state contributions for the employee; and

(E) any other information the retirement system determines is necessary to enforce this section.

(d) The retirement system may:

(1) require from employers reports of applications for money;

(2) require evidence that the applications include requests for funds available to pay state contributions to the retirement system for employees paid from the grant; and

(3) examine the records of any employer to determine compliance with this section and rules promulgated under it.

(e) A person commits an offense if the person is an administrator of an employer and knowingly fails to comply with this section.

(f) An offense under Subsection (e) is a Class C misdemeanor.

(g) An employer who fails to comply with this section may not, after the failure, apply for or spend any money from a federal or private grant. The retirement system shall report alleged noncompliance to the attorney general, the Legislative Budget Board, the comptroller of public accounts, and the governor. The attorney general shall bring a writ of mandamus against the employer to compel compliance with this section.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.405); am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.55, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 21, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1223 (H.B. 2358), § 1, effective September 1, 2007.)

Sec. 825.407. Collection of Contributions from Noneducational and General Funds.

(a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003, Education Code.

(2) "Medical and dental unit" has the meaning assigned by Section 61.003, Education Code.

(3) "Noneducational and general funds" means all funds of an institution of higher education except those funds used as a method of financing for an institutional appropriation in the General

Appropriations Act or dedicated by the Constitution of the State of Texas.

(b) The governing board of each general academic teaching institution and the governing board of each medical and dental unit shall reimburse the state, from noneducational and general funds of the institution or unit, for state contributions that are made based on any portion of a member's salary that is paid from the noneducational and general funds.

(c) The designated disbursing officer of each general academic teaching institution and the designated disbursing officer of each medical and dental unit shall:

(1) submit to the retirement system, at a time and in the manner prescribed by the retirement system, a monthly report containing a certification of the total amount of salary paid from noneducational and general funds and the total amount of employer contributions due under this section for the payroll period; and

(2) maintain and retain the following information:

(A) the name of each member employed by the institution or unit who, for the most recent payroll period, was paid wholly or partly from noneducational and general funds;

(B) the amount of the employee's salary for the most recent payroll period that was paid from noneducational and general funds; and

(C) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount certified under Subdivision (3) of that subsection.

(e) After the end of each fiscal year, the retirement system shall report to the comptroller of public accounts the name of any general academic teaching institution and any medical and dental unit delinquent in the reimbursement of contributions under this section for the preceding fiscal year and the amount by which each reported institution or unit is delinquent.

(f) Any portion of the reimbursement required under this section to be made for a fiscal year by a general academic teaching institution or a medical and dental unit that remains unpaid on the first day of the next fiscal year accrues interest, beginning on that day or the due date for the portion, whichever is later, at an annual rate, compounded monthly, equal to the rate established under Section 825.313(b)(1), plus two percent.

(g) The retirement system shall deposit all money it receives under this section in the state contribution account.

(Enacted by Acts 1985, 69th Leg., ch. 99 (S.B. 745), § 1, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.4051); am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 8, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 22, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1223 (H.B. 2358), § 2, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 46, effective September 1, 2013.)

Sec. 825.4071. Collection of Contributions from Employers That Are Public Junior Colleges or Public Junior College Districts.

(a) This section applies to an employer that is a public junior college or a public junior college district.

(b) An employer described by Subsection (a) shall contribute monthly to the retirement system:

(1) an amount equal to the state contribution rate then in effect multiplied by 50 percent of the aggregate eligible creditable compensation of members who are qualifying employees under Section 825.404(a-1)(1) that the employer reports to the retirement system; and

(2) an amount equal to the state contribution rate then in effect multiplied by 100 percent of the aggregate eligible creditable compensation of all other members under Section 825.404(a-1)(2) that the employer reports to the retirement system.

(c) The designated disbursing officer of each public junior college and each public junior college district shall:

(1) submit to the retirement system, at a time and in the manner prescribed by the retirement system, a monthly report containing a certification that includes:

(A) the total amount of compensation paid;

(B) the total amount of employer contributions due under this section for the payroll period; and

(C) any other information the retirement system determines is necessary to administer this section; and

(2) maintain and retain the following information:

(A) the name of each member employed by the public junior college or public junior college district;

(B) the amount of the member's salary for the most recent payroll period;

(C) whether the member is a qualifying employee under Section 825.404(a-1)(1); and

(D) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount of employer contributions certified in Subsection (c)(1).

(e) Not later than the 90th day after the date each school year ends, the retirement system shall certify to the comptroller the names of any public junior colleges or public junior college districts that have failed to remit, within the period required by Section 825.408, all contributions required under this section for the school year and the amounts of the unpaid contributions.

(f) If the comptroller receives a certification under Subsection (e), the comptroller shall withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the public junior college or public junior college district. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(g) The retirement system shall deposit all money it receives under this section in the state contribution account.

(Enacted by Acts 2013, 83rd Leg., ch. 812 (S.B. 1812), § 2, effective June 14, 2013.)

Sec. 825.408. Interest on Contributions and Fees; Deposits in Trust.

(a) An employer that fails to remit, before the seventh day after the last day of a month, all member and employer deposits and documentation of the deposits required by this subchapter to be remitted by the employer for the month shall pay to the retirement system, in addition to the deposits, interest on the unpaid or undocumented amounts at an annual rate compounded monthly. The rate of interest is the rate established under Section 825.313(b)(1), plus two percent. Interest required under this section is creditable to the interest account. On request, the retirement system may grant a waiver of the deadline imposed by this subsection based on an employer's financial or technological resources.

(b) An employer and its trustees or other governing body hold amounts due to the retirement system under this subtitle in trust for the retirement system and its members and may not divert the amounts to any other purpose.

(Enacted by Acts 1984, 68th Leg., 2nd C.S., ch. 28 (S.B. 52), § 20, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.406); am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 9, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 23, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), § 17, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 18, effective September 1, 2011.)

Sec. 825.409. Employer Pickup of Member Contributions.

(a) Each employer shall pick up the employee contribution required of each of its employees by Section 825.403 for all compensation earned after December 31, 1987. Employers shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. An employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

(b) Contributions picked up as provided by Subsection (a) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, each employer shall continue to withhold federal income taxes on these picked-up contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414) these picked-up contributions may not be included as gross income of the employee until such time as they are distributed or made available.

(c) Employee contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 825.403. Employee contributions picked up by an employer and credited to the employee's account shall be treated for all other purposes as if the amount were a part of the member's annual compensation and had been deducted pursuant to Section 825.403(a).

(Enacted by Acts 1987, 70th Leg., ch. 642 (H.B. 2252), § 1, effective June 19, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.407).)

Sec. 825.4092. Employer Contributions for Employed Retirees.

(a) This section applies to an employer who reports to the retirement system the employment of a retiree.

(b) Except as provided by Subsection (e), during each payroll period for which a retiree is reported, the employer shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

(1) the current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

(2) the current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

(c) Except as provided by Subsection (e), each payroll period, for each retiree who is enrolled in the Texas Public School Employees Group Insurance Program under Chapter 1575, Insurance Code, the employer who reports the employment of a retiree shall contribute to the trust fund established under that chapter any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the retirement system. If more than one employer reports the retiree to the retirement system during a month, the amount of the required payment shall be prorated among the employers.

(d) Contributions under this section are subject to the requirements of Section 825.408.

(e) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who retired from the retirement system before September 1, 2005.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 30, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1389 (S.B. 1846), § 3, effective September 1, 2007.)

Sec. 825.410. Payroll Deductions or Installment Payments for Special Service Credit.

(a) Payments to establish special service credit as authorized under this subtitle, other than service credit that may only be determined and paid for at the time of retirement such as unused leave as authorized by Section 823.403, may be made in a lump sum by a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish at least one year of service credit, or in equal monthly installments over a period not to exceed the lesser of the number of years of credit to be purchased or 60 months. Installment and payroll deduction payments are due on the first day of each calendar month in the payment period. If an installment or payroll deduction payment is not made in full within 60 days after the due date, the retirement system may refund all installment or payroll deduction payments less fees paid on the lump sum due when installment or payroll deduction payments began. Partial payment of an installment or payroll deduction payment may be treated as nonpayment. A check returned for insufficient funds or a closed account shall be treated as nonpayment. When two or more consecutive monthly payments have a returned check, a refund may be made. If the retirement system refunds payments pursuant to this subsection, the member is not permitted to use the installment method of payment or the payroll deduction method, as applicable, for the same service for three years after the date of the refund. A member who requests and receives a refund of installment or payroll deduction payments also is not permitted to use the same method of payment for the same service for three years after the date of the refund.

(b) Service credit shall be established pursuant to the following provisions:

(1) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit, at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit. No credit shall be established for service pursuant to Section 823.501 until a lump sum has been paid or all payroll deduction or installment payments have been completed.

(2) No credit shall be established for other service when the cost of establishing the service has been determined by using withdrawn service to be reinstated pursuant to Section 823.501 until a lump sum or all payroll deductions or installments for the withdrawn service have been paid.

(3) All other service shall be credited when sufficient payroll deductions or installments have been completed to satisfy the cost requirements for a year of service.

(c) All installment and payroll deduction payments must be made on or before the service retirement date or the last day of the month in which the member's application for service retirement is submitted, whichever is later, or before the 31st day following the date on which the medical board certifies a member's disability. The installment pay-

ment method or payroll deduction method may not be used to establish service credit after retirement.

(d) If a member who has made at least one payroll deduction or installment payment and who is using the payroll deduction or installment method of payment dies before completing the payments, the retirement system may:

(1) return to the beneficiary determined under Sections 824.101 and 824.103 the payments less fees paid on the lump sum due when payments began and less payments which have resulted in credited service being established; or

(2) permit the beneficiary determined under Sections 824.101 and 824.103 to complete payment of the unpaid balance remaining at the time of the member's death.

(e) If the beneficiary requests a return of the installment or payroll deduction payments under Subsection (d)(1), the retirement system shall return the payments in a lump sum. No additional service credit shall be established that has not been established in compliance with this section. If service credit has been established by installment or payroll deduction payments, the retirement system shall not refund the payments, less any applicable fees, used to establish such credit unless a refund of total accumulated contributions is made to a member or beneficiary.

(f) If the beneficiary elects to complete the payments under Subsection (d)(2), the beneficiary shall make full payment in a lump sum of the unpaid balance before the issuance of any warrant to him in full or partial payment of death or survivor benefits.

(g) A member seeking to establish service credit by using the installment or payroll deduction payment method shall pay an additional fee of nine percent per annum calculated on a declining balance method on the lump sum due at the time the payment process begins. For purposes of this subsection, the installment or payroll deduction payment process begins on the first business day of the month in which the first payment becomes due. None of the additional fees shall be returned to the member or a beneficiary.

(h) The board of trustees has authority to adopt rules to implement this section, including rules establishing a minimum amount for monthly installment or payroll deduction payments and rules establishing payment under Section 823.004(b).

(i) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in the establishment of special service credit and determine the extent to which any increase has been caused by the installment or payroll deduction payment method. If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system's benefits is endangered by continuation of the installment or payroll deduction payment method, the board of trustees may determine that the payment method will not be available, other than to those who are using the method at the time of the determination.

(j) Payments to establish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(k) Each employer shall establish a payroll deduction plan to facilitate the payroll deductions authorized by this section and shall cooperate with the retirement system in implementing the payroll deduction method of payment for service credit.

(Enacted by Acts 1991, 72nd Leg., ch. 882 (H.B. 907), § 2, effective September 1, 1992; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 27, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 28, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 32, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 15, effective June 14, 2013.)

Sec. 825.411. Payroll Deductions for Service Credit [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(5), effective June 14, 2013.

(Enacted by Acts 1997, 75th Leg., ch. 964 (H.B. 1780), § 4, effective September 1, 1997.)

SUBCHAPTER F
MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 825.501. Statement of Amount in Individual Accounts.

(a) No later than December 1 of each year, the board of trustees shall furnish to each member a statement of the amount credited to the member's individual account as of August 31 of the preceding fiscal year.

(b) In addition to the statement required by Subsection (a) of this section, the board of trustees shall furnish, on written request, to a member of the retirement system a statement of the amount credited to the member's individual account. The board is not required to furnish more than four of these statements to each member a calendar year.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil

Statutes Sec. 35.501); am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.06(f), effective August 26, 1991.)

Sec. 825.502. Payment of Contributions to a Member Absent from Service.

(a) If a demand for the accumulated contributions of a member with fewer than five years of service has not been made in accordance with Section 822.005 before the seventh anniversary of the member's last day of service, the retirement system shall return to the member or to the member's heirs all accumulated contributions of the member.

(b) If the member or the member's heirs cannot be found, the member's accumulated contributions are forfeited to the retirement system. The retirement system shall credit the amount forfeited to the retired reserve account.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.502); am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.05(i), effective August 26, 1991.)

Sec. 825.503. Reproduction and Preservation of Records.

(a) The retirement system may photograph, microphotograph, or film, or use electronic storage for, all records pertaining to a member's individual file, accounting records, district report records, and investment records. The retirement system may receive any record or report on paper or film or in an electronic storage format.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction or electronic record in a file conveniently accessible to retirement system personnel; and

(2) provides for the preservation, examination, and use of the reproduction or stored electronic record.

(c) A photograph, microphotograph, film, or electronic record of a record received or reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, film, or electronic record is admissible as evidence equally with the original photograph, microphotograph, film, or electronic record.

(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, film, or electronic record of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, film, or electronic record as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

(f) In this section:

(1) "Electronic storage" means the maintenance of record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar medium readable by machine.

(2) "Electronic record" means any information that is recorded in a form for computer processing.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.503); am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 28, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 50, effective September 1, 1995.)

Sec. 825.504. Employer Certification to Board.

(a) An employer annually shall certify to the board of trustees the beginning date of the contract of each member whose contract year begins after June 30 and continues after August 31 of the same calendar year.

(b) For school years after the 1994-1995 school year, an employer annually shall certify to the board of trustees the beginning date of an oral or written work agreement that begins after June 30 and continues after August 31 of the same calendar year.

(c) Each reporting district shall cooperate with the retirement system in ascertaining a member's annual earnings during any year. The board of trustees by rule may prescribe the form of and procedures for filing certifications required by this section.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.504); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 51, effective September 1, 1995.)

Sec. 825.505. Audits.

For the purpose of determining the propriety of contributions or credits, the records of an employer concerning the employment and compensation of its personnel are subject to examination, in the offices of the employer during regular working hours, by representatives of the retirement system designated to conduct the examination.

(Enacted by Acts 1985, 69th Leg., ch. 556 (H.B. 2089), § 4, effective August 26, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.505).)

Sec. 825.506. Plan Qualification.

(a) It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Notwithstanding any other provision of this subtitle, benefits provided to a retiree, or based on the service of a member or retiree, may not exceed benefits permitted to be provided by a qualified plan by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The board of trustees may adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and shall adopt rules to ensure that benefits paid to a retiree, or to a beneficiary of a member or retiree, do not exceed the limits provided by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). Rules adopted by the board of trustees are to be considered a part of the plan.

(b) In determining qualification status under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system's benefit plan shall be considered primary. An employer may not provide employee retirement or deferred benefits to the extent that, when considered together with the benefits authorized by this subtitle as required by federal law, would result in the retirement system's plan failing to meet federal qualification standards as applied to public pension plans.

(c) It is intended that the retirement system administer the plan in a manner that satisfies the required minimum distribution provisions of Section 401(a)(9), Internal Revenue Code of 1986. The board of trustees may adopt rules to administer the distribution requirements, including distribution when a participant dies before the entire interest is distributed.

(Enacted by Acts 1987, 70th Leg., ch. 642 (H.B. 2252), § 2, effective June 19, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 35.506); am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 52, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 33, effective September 1, 2005.)

Sec. 825.507. Record Confidentiality.

(a) Records of a participant and information about the records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. Because the records and information described by this section are exempt from the public access provisions of Chapter 552, the retirement system or an administering firm, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system, is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.

(b) The retirement system may release records of a participant, or information about the records of a participant, including a participant to which Chapter 803 applies, to:

(1) the participant or the participant's attorney or guardian or another person who the executive director determines is acting on behalf of the participant;

(2) the executor or administrator of the deceased participant's estate, including information relating to the deceased participant's beneficiary, or if an executor or administrator of the deceased participant's estate has not been named, a person or entity who the executive director determines is acting in the interest of the deceased participant's estate, or an heir, legatee, or devisee of the deceased participant;

(3) a spouse or former spouse of the participant if the executive director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(4) an administrator, carrier, consultant, attorney, or agent acting on behalf of the retirement system;

(5) a governmental entity, an employer, or the designated agent of an employer, only to the extent the retirement system needs to share the information to perform the purposes of the retirement system, as determined by the executive director;

(6) a person authorized by the participant in writing to receive the information;

(7) a federal, state, or local criminal law enforcement agency that requests a record for a law enforcement purpose;

(8) the attorney general to the extent necessary to enforce child support; or

(9) a party in response to a subpoena issued under applicable law if the executive director

determines that the participant will have a reasonable opportunity to contest the subpoena.

(c) The records of a participant and information about the records remain confidential after release to a person as authorized by this section. This section does not prevent the retirement system or administering firm or carrier acting in cooperation with or on behalf of the retirement system from disclosing or confirming, on an individual basis, the status or identity of a participant as a member, former member, retiree, deceased member or retiree, beneficiary, or alternate payee of the retirement system.

(d) The executive director may designate other employees of the retirement system to make the necessary determinations under this section. A determination and disclosure under this section may be made without notice to the participant.

(e) The retirement system may make not more than two mailings a year on behalf of a nonprofit association of active or retired school employees, for purposes of association membership and research only, to persons identified in information contained in records that are in the custody of the retirement system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.

(f) This section does not authorize the retirement system to compile or disclose a list of participants' names, addresses, including e-mail addresses, or social security numbers unless the executive director determines that a compilation or disclosure is necessary to administer the retirement system.

(g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

(Enacted by Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.05(j), effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 29, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(97), effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1229 (S.B. 273), §§ 18, 19, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 34, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 19, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 16, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 26(d) provides: "The change in law made by this Act to Subsection (b), Section 825.507, Government Code, applies only to the release of records by the Teacher Retirement System of Texas on or after the effective date of this Act [September 1, 2011]. The release of records before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose."

Sec. 825.508. Powers of Attorney.

(a) A person entitled to payment of an annuity or other benefits administered by the retirement system may direct the retirement system to treat as the authorized representative of the person concerning the disposition of the benefits an attorney-in-fact under a power of attorney that complies with Subsection (b).

(b) The system must honor a power of attorney executed in accordance with Chapter XII, Section 490, Texas Probate Code.

(c) If the power of attorney is revoked, the retirement system is not liable for payments made to or actions taken at the request of the attorney-in-fact before the date the system receives written notice that the power of attorney has been revoked.

(Enacted by Acts 1991, 72nd Leg., 1st C.S., ch. 13 (H.B. 158), § 19, effective November 12, 1991; am. Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 30, effective September 1, 1993 (renumbered from Sec. 825.507); am. Acts 1993, 73rd Leg., ch. 107 (H.B. 947), § 10.01(8), effective August 30, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 53, effective September 1, 1995.)

Sec. 825.509. Direct Rollovers.

(a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any law governing the retirement system that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the executive director or the executive director's designee, to have any portion of an eligible rollover distribution from the retirement system paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) An eligible rollover distribution under this section is any distribution of all or a portion of the balance to the credit of the distributee, other than:

(1) a distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for:

(A) the life or life expectancy of the distributee;

(B) the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary; or

(C) a specified period of 10 years or more;

(2) a distribution to the extent the distribution is required under Section 401(a)(9), Internal Revenue Code of 1986; or

(3) the portion of a distribution that is not includable in gross income for federal income tax purposes.

(b-1) Notwithstanding Subsection (b)(3), with respect to a distribution made on or after January 1, 2002, an otherwise eligible portion of a rollover distribution that consists of after-tax employee contributions not includable in gross income is an eligible rollover distribution for purposes of this section. The eligible portion may be transferred only:

(1) to an individual retirement account or annuity described by Section 408(a) or (b), Internal Revenue Code of 1986;

(2) to a qualified plan described by Section 403(a), Internal Revenue Code of 1986;

(3) for distributions occurring on or after January 1, 2007, to a qualified plan described by Section 401(a), Internal Revenue Code of 1986; or

(4) to an annuity contract described by Section 403(b), Internal Revenue Code of 1986, that agrees to separately account for amounts transferred and earnings on amounts transferred, including for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income.

(c) An eligible retirement plan under this section includes:

(1) an individual retirement account described by Section 408(a), Internal Revenue Code of 1986;

(2) an individual retirement annuity described by Section 408(b), Internal Revenue Code of 1986;

(3) an annuity plan described by Section 403(a), Internal Revenue Code of 1986;

(4) a qualified trust described by Section 401(a), Internal Revenue Code of 1986, that accepts the distributee's eligible rollover distribution;

(5) with respect to a distribution made on or after January 1, 2002, a plan eligible under Section 457(b), Internal Revenue Code of 1986, that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred into the plan from the retirement system;

(6) with respect to a distribution made on or after January 1, 2002, an annuity contract described by Section 403(b), Internal Revenue Code of 1986; or

(7) with respect to a distribution made on or after January 1, 2008, a Roth IRA described by Section 408A, Internal Revenue Code of 1986.

(d) In this section:

(1) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by a distributee.

(2) "Distributee" means a person who receives an eligible rollover distribution from the retirement system and includes an employee or former employee and, regarding the interest of an employee or former employee, the person's surviving spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined by Section 414(p), Internal Revenue Code of 1986. With respect to a distribution made on or after January 1, 2007, a distributee includes a beneficiary who:

(A) is a designated beneficiary, as defined by Section 401(a)(9)(E), Internal Revenue Code of 1986, of an employee or former employee; and

(B) is not the spouse, surviving spouse, or alternate payee of an employee or former employee.

(e) A direct trustee-to-trustee transfer on behalf of a distributee beneficiary who is not a spouse is an eligible rollover distribution. A distributee beneficiary who is not a spouse may roll over the distribution only to an individual retirement account or individual retirement annuity that:

(1) is established for the purpose of receiving the distribution; and

(2) is considered an inherited account or annuity to which Section 401(a)(9)(B), Internal Revenue Code of 1986, applies, except for Section 401(a)(9)(B)(iv).

(f) To the extent provided by federal law, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust maintained for a designated beneficiary.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 31, effective September 1, 1993; am. Acts 2009, 81st Leg., ch. 1171 (H.B. 3347), § 4, effective September 1, 2009.)

Sec. 825.510. Budget and Investment Information [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(19), effective September 1, 2013.

(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 31, effective September 1, 1993.)

Sec. 825.511. Complaint Files.

(a) The retirement system shall maintain a system to promptly and efficiently act on complaints filed with the system that the system has authority to resolve. The system shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The retirement system shall make information available describing its procedures for complaint investigation and resolution.

(c) The retirement system shall periodically notify the complaint parties of the status of the complaint until final disposition.
(Enacted by Acts 1993, 73rd Leg., ch. 812 (H.B. 2711), § 31, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 54, effective September 1, 1995; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 12, effective September 1, 2007.)

Sec. 825.512. Investment Practices and Performance Reports.

(a) The legislative audit committee biennially shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the retirement system's investment practices and performance.

(b) The legislative audit committee shall determine specific areas to be evaluated, but the first evaluation must be a comprehensive analysis of the retirement system's investment program.

(c) A report of an evaluation under this section shall be filed with the legislative audit committee not later than December 1 of each even-numbered year.

(d) The retirement system shall pay the costs of each evaluation under this section.

(e) The retirement system shall submit an annual investment performance report not later than the 45th day after the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the legislative audit committee, the committees of the senate and the house of representatives having jurisdiction over appropriations, the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and the Legislative Budget Board. The report shall include a listing of all commissions and fees paid by the system during the reporting period for the sale, purchase, or management of system assets.
(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 55, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 29, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 35, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 36, effective September 1, 2005.)

Sec. 825.513. Information for Publication.

The retirement system shall verify with the State Pension Review Board the accuracy of information about the effects of proposed legislation on benefits and the trust fund before including the information in an official publication of the retirement system.
(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 55, effective September 1, 1995.)

Sec. 825.514. Historically Underutilized Businesses.

The retirement system is subject to the provisions, including Chapter 2161, that relate to historically underutilized businesses.
(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 55, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (H.B. 119), § 17.19(21), effective September 1, 1997.)

Sec. 825.515. Information About Member Positions.

(a) At least annually, the retirement system shall acquire and maintain records identifying members and specifying the types of positions they hold as members. Employers shall provide to the retirement system information specifying the type of position held by each member as Administrative/Professional, Teacher/Full-Time Librarian, Support, Bus Driver, or Peace Officer. Employers shall also provide to the retirement system the work e-mail address for each member. For each member identified as a Peace Officer, the records must specify whether the member is an employee of an institution of higher education or of a public school that is not an institution of higher education. An employer shall provide the information required by this section in the form and manner specified by the retirement system.

(b) Information contained in records of the retirement system maintained under this section is confidential within the limits prescribed by Section 825.507.
(Enacted by Acts 1995, 74th Leg., ch. 555 (S.B. 9), § 55, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 24, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 20, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 17, effective June 14, 2013.)

Sec. 825.516. Nonprofit Association Dues.

(a) A retiree who is receiving an annuity from the retirement system may request the system to withhold from the retiree's monthly annuity payment membership dues for a nonprofit association of retired school employees in this state, if the association is statewide and its membership includes at least five percent of all retirees of the retirement

system. The request for withholding must be on a form provided by the retirement system.

(b) After the retirement system receives a request authorized by this section, the system may make the requested deductions until the earlier of:

(1) the date the annuity is terminated; or

(2) the first payment of the annuity after the date the system receives a written request signed by the retiree canceling the request for the withholding.

(c) The retirement system shall send all dues withheld under this section to the nonprofit association after each monthly payment of annuities.

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 30, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1540 (S.B. 1128), § 25, effective September 1, 1999.)

Sec. 825.517. Excess Benefit Arrangement.

(a) A separate, nonqualified, unfunded excess benefit arrangement is created outside the trust fund of the retirement system. This excess benefit arrangement shall be administered as a governmental excess benefit arrangement under Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)). The purpose of the excess benefit arrangement is to pay to annuitants of the retirement system benefits otherwise payable by the retirement system that exceed the limitations on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)).

(b) The board of trustees is responsible for the administration of this arrangement. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities concerning the excess benefit arrangement as it has to the trust fund.

(c) Benefits under this section are exempt from execution to the same extent as provided by Section 821.005. Contributions to this arrangement are not held in trust and may not be commingled with other funds of the retirement system.

(d) An annuitant is entitled to a monthly benefit under this section in an amount equal to the amount by which the benefit otherwise payable by the retirement system has been reduced by the limitation on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)). The benefit payable by this arrangement is payable at the times and in the form that the benefit payable under the trust fund is paid.

(e) The benefit payable under this section shall be paid from state contributions that otherwise would be made to the trust fund under Section 825.404. In lieu of deposit in the state contribution account, an amount determined by the retirement system to be necessary to pay benefits under this section shall be paid monthly to the credit of a dedicated account in the general revenue fund maintained only for the excess benefit arrangement. The account may include amounts needed to pay reasonable and necessary expenses of administering this arrangement. The monthly amount to be paid to the credit of the account shall be transferred to the account at least 15 days before the date of a monthly disbursement under this section.

(f) The board of trustees may adopt rules governing the excess benefit arrangement that are necessary for the efficient administration of the arrangement in compliance with Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)).

(Enacted by Acts 1997, 75th Leg., ch. 1416 (H.B. 2644), § 31, effective September 1, 1997.)

Sec. 825.518. Annual Report [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(20), effective September 1, 2013.

(Enacted by Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 10, effective September 1, 1999.)

Sec. 825.519. Electronic Information.

The retirement system may provide confidential information electronically to members or other participants or employers and receive information electronically from those persons, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 37, effective September 1, 2005.)

Sec. 825.520. Immunity from Liability.

The trustees, executive director, and employees of the retirement system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program or system administered by the retirement system.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 37, effective September 1, 2005.)

SUBCHAPTER G
MEMBER SERVICES

Sec. 825.601. Policies Governing Retirement Benefits Counseling.

The board of trustees shall adopt policies governing retirement benefits counseling provided to members by the system. The policies must:

(1) address the manner in which the retirement system makes group and individual member retirement benefits counseling available throughout the state;

(2) identify the geographic regions of the state most in need of retirement benefits counseling services and the manner in which that need will be met; and

(3) clarify that the retirement system does not provide financial or legal advice.

(Enacted by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 13, effective September 1, 2007.)

Sec. 825.602. Retirement Benefits Counseling for Individuals.

(a) To the extent feasible, the retirement system shall make retirement benefits counseling for individual members available in conjunction with informational or educational programs concerning retirement planning that the system provides for groups.

(b) The retirement system shall provide retirement benefits counseling for individual members in geographic regions of this state outside of Austin.

(Enacted by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 13, effective September 1, 2007.)

CHAPTER 830
OPTIONAL RETIREMENT PROGRAM

Subchapter A. General Provisions

Subchapter B. Participation

Subchapter C. Contributions and Benefits

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 830.001. Purpose of Chapter.

The purpose of this chapter is to establish a complete retirement program for faculty members employed in state-supported institutions of higher education as an incentive that will attract high quality faculties and thereby improve the level of education at state-supported colleges and universities.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.001).)

Sec. 830.0011. Definition.

Notwithstanding Section 821.001, in this chapter "retirement system" means the Teacher Retirement System of Texas or the Employees Retirement System of Texas, as the context requires.

(Enacted by Acts 1995, 74th Leg., ch. 586 (S.B. 1231), § 33, effective August 28, 1995.)

Sec. 830.002. Optional Retirement Program.

(a) The optional retirement program established as provided by this subtitle shall provide for contributions to any type of investment authorized by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403), as it existed on January 1, 1981, and for the purchase of fixed or variable retirement annuities that meet the requirements of that section and Section 401(g) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401).

(b) Participation in the optional retirement program is an alternative to active membership in the retirement system.

(c) The Texas Higher Education Coordinating Board shall develop policies, practices, and procedures as necessary in accordance with applicable statutes to provide greater uniformity in the admin-

istration of the retirement annuity insurance program available to employees of Texas state colleges and universities through the optional retirement program.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 35, effective November 10, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.002); am Acts 1991, 72nd Leg., ch. 242 (H.B. 2), § 11.117, effective September 1, 1991.)

Sec. 830.003. Application.

In this chapter, the term "institution of higher education" includes the Texas Higher Education Coordinating Board, the Texas State Technical College System, and the institutions defined in Section 821.001(10), but excludes the Rodent and Predatory Animal Control Service.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.003); am. Acts 1991, 72nd Leg., ch. 287 (S.B. 1222), § 31, effective September 1, 1991.)

Sec. 830.004. Administration.

(a) A governing board may provide for contributions to any type of investment authorized by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403), as it existed on January 1, 1981, and may arrange the purchase of annuity contracts from any insurance or annuity company that is qualified to do business in this state.

(b) If a governing board has more than one component institution, agency, or unit under its jurisdiction, the governing board may provide a separate optional retirement program for each component or may place two or more components under a single program.

(c) An institution of higher education may establish a governmental excess benefit arrangement as provided by Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)) for the purpose of providing to participants in the optional retirement program any portion of a participant's benefits that would otherwise be payable under the terms of the program except for the limitation on benefits imposed by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The governing board of an institution of higher education may take any action necessary to establish and implement a governmental excess benefit arrangement authorized in accordance with this subsection.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.004); am. Acts 1997, 75th Leg., ch. 697 (S.B. 1460), § 1, effective June 17, 1997; am. Acts 1997, 75th Leg., ch. 697 (S.B. 1460), effective June 17, 1997.)

Sec. 830.005. Exemption from Taxes.

If qualified to do business in this state, a life insurance or annuity company is exempt from the payment of franchise or premium taxes on annuity or group insurance policies issued under a benefit program authorized and at least partly paid for by the governing board of an institution of higher education or the Texas Education Agency.
(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.005); am. Acts 1991, 72nd Leg., ch. 391 (H.B. 2885), § 73, effective July 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.24, effective September 1, 1997.)

Sec. 830.006. Reports from Institutions.

(a) The governing board of each institution of higher education, other than the Texas Higher Education Coordinating Board, shall annually submit a report to the coordinating board that includes information concerning the number of participants and eligible positions and the amount of contributions.

(b) The governing board of each institution required to file a report under Subsection (a) shall keep records, make certifications, and furnish to the Texas Higher Education Coordinating Board information and reports as required by the coordinating board to enable it to carry out its functions under this subtitle.

(c) The Texas Higher Education Coordinating Board shall prepare the report required by Subsection (a) and shall maintain the information required by Subsection (b) with respect to its own employees.
(Enacted by Acts 1991, 72nd Leg., ch. 242 (H.B. 2), § 11.118, effective September 1, 1991.)

SUBCHAPTER B
PARTICIPATION

Sec. 830.101. Eligibility to Participate.

(a) The governing board of each institution of higher education shall provide an opportunity to participate in the optional retirement program to all

faculty members in the component institutions governed by the board. The State Board of Education shall provide an opportunity to participate in the optional retirement program to the commissioner of education.

(b) Eligibility to participate in the optional retirement program is subject to rules adopted by the Texas Higher Education Coordinating Board.

(c) A person who before September 1, 1987, had chosen to participate in the optional retirement program and who was participating in the program on September 1, 1987, is entitled to continue to participate in the program until the person terminates participation as provided by Section 830.105(a).

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1987, 70th Leg., 2nd C.S., ch. 58 (H.B. 168), § 2, effective October 20, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.101); am. Acts 1991, 72nd Leg., ch. 391 (H.B. 2885), § 74, effective July 1, 1991.)

Sec. 830.102. Option to Participate.

(a) A member of the retirement system who is eligible to participate in the optional retirement program may elect to continue as a member of the retirement system or to participate in the optional retirement program.

(b) A person eligible to participate in the optional retirement program on the date the program becomes available at the person's place of employment must elect to participate in the program no later than August 1 of the calendar year after the year in which the program becomes available.

(c) A person who becomes eligible to participate in the optional retirement program after the date the program becomes available at the person's place of employment must elect to participate before the 91st day after becoming eligible.

(d) An eligible person who does not elect to participate in the optional retirement program is considered to have chosen to continue membership in the retirement system.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.102).)

Sec. 830.103. Effect of Transfers and Changes in Employment Status.

(a) An institution of higher education shall accept the transfer of a participant's optional retirement program from another institution of higher education or from the Texas Education Agency. The Texas Education Agency shall accept the transfer of a participant's optional retirement program from an institution of higher education if the participant becomes commissioner of education.

(b) If, after participating in the optional retirement program for at least one year, a person becomes employed in an institution of higher education in a position normally covered by the retirement system, the person shall continue participation in the optional retirement program if the person has had no intervening employment in the public schools other than as commissioner of education or a position in an institution of higher education.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.103); am. Acts 1991, 72nd Leg., ch. 391 (H.B. 2885), § 75, effective July 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.25, effective September 1, 1997.)

Sec. 830.104. Withdrawal of Contributions to the Retirement System.

(a) A person who is a participant in the optional retirement program may withdraw accumulated contributions from the retirement system.

(b) An application to withdraw contributions under this section must be in writing and on a form prescribed by the board of trustees.

(c) Before the first anniversary of the date an application is received, the retirement system shall pay a withdrawing member the member's accumulated contributions.

(d) A person who withdraws contributions under this section relinquishes all accrued rights in the retirement system.

(e) Nothing in Section 830.105 precludes the election by a participant to withdraw accumulated contributions under this section.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.104).)

Sec. 830.105. Termination of Participation.

(a) A person terminates participation in the optional retirement program, without losing any accrued benefits, by:

(1) death;

(2) retirement; or

(3) termination of employment in all institutions of higher education.

(b) A change of company providing optional retirement program benefits or a participant's transfer between institutions of higher education is not a termination of employment.

(c) The benefits of an annuity purchased under the optional retirement program are available only if the participant obtains the age of 70 ½ years or terminates participation in the program as provided by Subsection (a).

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 37, effective November 10, 1981; am. Acts 1987, 70th Leg., ch. 173 (S.B. 1301), § 1, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.105).)

Sec. 830.106. Eligibility for Resumption of Membership.

A participant in the optional retirement program is not eligible for membership in the retirement system unless the person:

(1) terminates employment covered by the optional retirement program; and

(2) becomes employed in the public school system or with a state agency in a position that is not eligible for participation in the optional retirement program.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.106); am. Acts 1995, 74th Leg., ch. 586 (S.B. 1231), § 34, effective August 28, 1995.)

Sec. 830.107. Investment Advisory Fees.

(a) A participant in the optional retirement program may authorize the payment of investment advisory fees from the amount in the participant's custodial account or annuity if:

(1) the investment advisory fees for each fiscal year do not exceed two percent of the annual value of the participant's custodial account or annuity as of the last day of that fiscal year;

(2) the fees are paid directly to a registered investment advisor that provides investment advice to the participant;

(3) the investment advisor to whom the fees are paid is registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) and is engaged full-time in the business of providing investment advice;

(4) the participant and the investment advisor enter into a contract, for a term of no more than one year, for services that provides for the payment of fees as provided by this section; and

(5) the attorney general has received an official determination from the Internal Revenue Service that payment of investment advisory fees as prescribed by this section is not a distribution of funds that is prohibited or subject to taxation and penalty under the Internal Revenue Code.

(b) The attorney general shall request an official determination from the Internal Revenue Service concerning whether the payment of investment advisory fees as prescribed by this section is a distribution of funds that is prohibited or subject to taxation and penalty under the Internal Revenue Code. If the attorney general receives an official determination from the Internal Revenue Service as specified by this subsection, the attorney general shall file the official determination with the secretary of state's office for publication in the Texas Register.

(Enacted by Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 11.07(a), effective August 26, 1991.)

SUBCHAPTER C
CONTRIBUTIONS AND BENEFITS

Sec. 830.201. Contributions.

(a) Each fiscal year the state shall contribute to the optional retirement program an amount equal to 8 1/2 percent of the aggregate annual compensation of all participants in the program during that year. A participant in the optional retirement program shall contribute to the program 6.65 percent of the person's annual compensation.

(b) Contributions required by this section shall be credited to the benefit of the participant.

(c) In this section, "annual compensation" has the meaning assigned to that term by Section 821.001(4).

(d) For a person who first became a participant in the optional retirement program beginning after August 31, 1996, the compensation limitation of Section 401(a)(17), Internal Revenue Code of 1986 (26 U.S.C. Section 401), applies.

(e) For a person who first became a participant in the optional retirement program before September 1, 1996, the compensation limitation under Section 401(a)(17), Internal Revenue Code (26 U.S.C. Section 401), does not apply. For these persons, the amount of compensation allowed to be taken into account under the plan shall be the amount allowed to be taken into account as of July 1, 1993.

(f) Subsection (e) of this section does not apply to a person whose compensation in excess of the com-

pensation limitation of Section 401(a)(17), Internal Revenue Code (26 U.S.C. Section 401), or whose state retirement contribution under this subchapter, is paid from general revenue funds or any student tuition or fee assessed under Chapters 54 or 55, Education Code.

(g) In computing the amount owed by the state under Subsection (a), the compensation of members who are employed by public junior colleges or public junior college districts shall be included in the aggregate annual compensation as follows:

(1) 50 percent of the eligible creditable compensation of employees who:

(A) otherwise are eligible for membership in the retirement system; and

(B) are instructional or administrative employees whose salaries may be fully paid from funds appropriated under the General Appropriations Act, regardless of whether such salaries are actually paid from appropriated funds; and

(2) none of the eligible creditable compensation of all other employees who:

(A) do not meet the requirements of Subdivision (1)(B) but are otherwise eligible for membership in the retirement system; or

(B) cannot be included as a qualifying employee under Subdivision (1) by application of Subsection (i).

(h) Before November 2 of each even-numbered year, the board of trustees, in coordination with the Legislative Budget Board, shall certify to the comptroller for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium. For qualifying employees under Subsection (g)(1), the board of trustees shall include only the amount payable by the state under Subsection (g)(1) in determining the amount to be certified.

(i) In determining the amount described by Subsection (h), the number of qualifying employees under Subsection (g)(1) whose compensation may be included for each public junior college or public junior college district in each biennium may not be adjusted in a proportion greater than the change in student enrollment at each college during the reporting period except that a college that experiences a decline in student enrollment may petition the Legislative Budget Board to maintain the number of eligible employees up to 98 percent of the level of the prior biennium.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.201); am. Acts 1995, 74th Leg., ch. 736 (H.B. 2032), § 2, effective June 15, 1995; am. Acts 2013, 83rd Leg., ch. 812 (S.B. 1812), § 3, effective June 14, 2013.)

Sec. 830.2015. Supplemental Contributions from Institutions of Higher Education.

(a) Each fiscal year, the governing board of an institution of higher education may make a contribution to the optional retirement program as provided by this section. The governing board may use any source of funds for the contribution.

(b) A contribution under this section may be any amount that is equal to or less than the difference between the amount the state is required to contribute under Section 830.201 to the benefit of each participant employed by the institution of higher education and the amount the state appropriates for that purpose.

(c) The governing board of an institution of higher education may contribute an amount under this section to the benefit of a participant employed by an institution of higher education on or before August 31, 1995, that is different from the amount the governing board contributes to the benefit of a participant employed by an institution of higher education after that date.

(Enacted by Acts 2003, 78th Leg., ch. 418 (H.B. 264), § 1, effective June 20, 2003.)

Sec. 830.202. Collection and Disbursement of Contributions.

(a) The contributions of participants in the optional retirement program shall be made by salary reduction pursuant to an agreement made under Section 830.204.

(b) The comptroller of public accounts shall pay the state's contributions to the optional retirement program to the appropriate institutions of higher education and, if applicable, to the Texas Education Agency.

(c) The disbursing officer of an institution of higher education and, if applicable, of the Texas Education Agency shall pay the contributions collected under this section to a company providing an optional retirement program for that institution not later than the third business day after the date the funds become legally available. If possible, the disbursing officer shall send the state's contributions and the participants' contributions together, and otherwise shall send the participants' contributions at the time of withholding and the state's contributions on receipt from the comptroller. This subsection does not apply to a supplemental payroll. This subsection applies only to a currently authorized

company or a company with at least 50 participants at the institution.

(d) An institution of higher education and, if applicable, the Texas Education Agency shall certify to the comptroller, in the manner provided for estimate of state contributions to the retirement system, estimates of funds required for the payments by the state under this section.

(e) The disbursing officer of an institution of higher education and, if applicable, of the Texas Education Agency, shall:

(1) send contributions to a company providing an optional retirement program for the institution by electronic transfer if the institution is currently able to send funds by electronic transfer; or

(2) certify to the Texas Higher Education Coordinating Board that the company is unable to receive funds by electronic transfer and send contributions by paper check.

(f) The company shall allocate and credit the contemporaneous deposit to each participant's account on the receipt of the electronic funds transfer and the electronic information on the amount to be allocated and credited to each participant's account. A company who violates this section shall become ineligible for certification as a company eligible to provide an optional retirement program.

(g) At least once each fiscal year, an institution of higher education and the Texas Education Agency shall give notice to each participant in the optional retirement program at the institution or agency indicating which companies are unable to receive funds by electronic transfer.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1987, 70th Leg., ch. 173 (S.B. 1301), § 2, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.202); am. Acts 1991, 72nd Leg., ch. 391 (H.B. 2885), § 76, effective July 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.26, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1359 (H.B. 724), § 1, effective September 1, 1997.)

Sec. 830.203. Collection of Contributions from Noneducational and General Funds.

(a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003, Education Code.

(2) "Medical and dental unit" has the meaning assigned by Section 61.003, Education Code.

(3) "Noneducational and general funds" means all funds of an institution of higher education except those funds used as a method of financing for an institutional appropriation in the General Appropriations Act or dedicated by the Constitution of the State of Texas.

(b) The governing board of each general academic teaching institution and the governing board of each medical and dental unit shall reimburse the state, from noneducational and general funds of the institution or unit, for state contributions that are made based on any portion of an optional retirement program participant's salary that is paid from the noneducational and general funds.

(c) The designated disbursing officer of each general academic teaching institution and the designated disbursing officer of each medical and dental unit shall submit to the retirement system, at a time and in the manner prescribed by the retirement system, a monthly report containing:

(1) the name of each optional retirement program participant employed by the institution or unit who, for the most recent payroll period, was paid wholly or partly from noneducational and general funds;

(2) the amount of the employee's salary for the most recent payroll period that was paid from noneducational and general funds;

(3) a certification of the total amount of employer contributions due under this section for the payroll period; and

(4) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount certified under Subdivision (3) of that subsection.

(e) After the end of each fiscal year, the retirement system shall report to the comptroller of public accounts and the State Auditor the name of any general academic teaching institution and any medical and dental unit delinquent in the reimbursement of contributions under this section for the preceding fiscal year and the amount by which each reported institution or unit is delinquent.

(f) Any portion of the reimbursement required under this section to be made for a fiscal year by a general academic teaching institution or a medical and dental unit that remains unpaid on the first day of the next fiscal year accrues interest, beginning on that day or the due date for the portion, whichever is later, at an annual rate, compounded monthly, equal to the rate established under Section 825.313(b)(1), plus two percent.

(g) The retirement system shall submit all money it receives under this section to the comptroller of public accounts for deposit in the general revenue fund.

(Enacted by Acts 1985, 69th Leg., ch. 99 (S.B. 745), § 2, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.2021); am. Acts 1999, 76th Leg., ch. 1118 (H.B. 3642), § 11, effective September 1, 1999.)

Sec. 830.204. Salary Reduction Agreement.

(a) A participant in the optional retirement program and either the employing institution of higher education or, as applicable, the Texas Education Agency, acting through its governing board, shall execute an agreement under which the salary of the participant is reduced by the amount of the contribution required under Section 830.201 and under which the employer or agency contributes an amount equal to the reduction for any type of investment authorized in Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403) or toward the purchase of an annuity under the program.

(b) An agreement under this section is irrevocable until the earlier of the time:

(1) the participant ceases participation in the optional retirement program; or

(2) it is determined by the Internal Revenue Service or by legislative enactment that the contributions of participants to the optional retirement program are elective deferrals within the meaning of Section 402 of the Internal Revenue Code of 1986 (26 U.S.C. Section 402).

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1981, 67th Leg., 1st C.S., ch. 18 (H.B. 126), § 38, effective November 10, 1981; am. Acts 1987, 70th Leg., ch. 173 (S.B. 1301), § 3, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.203); am. Acts 1991, 72nd Leg., ch. 391 (H.B. 2885), § 77, effective July 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.27, effective September 1, 1997.)

Sec. 830.205. Benefits.

Benefits in the optional retirement program vest in a participant after one year of participation in one or more optional retirement plans operating under this chapter.

(Enacted by Acts 1981, 67th Leg., ch. 453 (H.B. 1932), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 179 (S.B. 1045), § 1, effective September 1, 1989 (renumbered from Revised Civil Statutes Sec. 36.204); am. Acts 1991, 72nd Leg., ch. 391 (H.B. 2885), § 78, effective July 1, 1991.)

TITLE 9
PUBLIC SECURITIES

SUBTITLE A
GENERAL PROVISIONS

CHAPTER 1201
PUBLIC SECURITY PROCEDURES ACT

Subchapter A. General Provisions

Subchapter B. Issuance and Approval of Public Security

Subchapter C. Financial Aspects of Public Security

Subchapter D. Change or Conversion of Public Securities

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1201.001. Short Title.

This chapter may be cited as the Public Security Procedures Act.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.002. Definitions.

In this chapter:

(1) "Issuer" means:

(A) an agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state; or

(B) a nonprofit corporation acting for or on behalf of an entity described by Paragraph (A).

(2) "Public security" means an instrument, including a bond, certificate, note, or other type of obligation authorized to be issued by an issuer under a statute, a municipal home-rule charter, or the constitution of this state.

(3) "Public security authorization" means a resolution, order, or ordinance that is approved or adopted, or any other action taken in a proceeding, by the governing body of an issuer in authorizing the issuance of a public security.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.003. Applicability.

This chapter applies to:

(1) an original public security;

(2) a refunding public security;

(3) an exchanged or converted public security; or

(4) any combination of those securities.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.004. Construction.

This chapter shall be liberally construed to achieve the legislative intent and purposes of this chapter. A power granted by this chapter shall be broadly interpreted to achieve that intent and those purposes.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.005. Contents of Public Security Authorization.

To the extent applicable to an authorized public security, the public security authorization for the public security must contain each item or other matter authorized or described by Subchapter B and Sections 1201.061 and 1201.063.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER B
ISSUANCE AND APPROVAL OF PUBLIC SECURITY

Sec. 1201.021. Characteristics of Public Security.

A public security may:

(1) be issued in any denomination;

(2) bear no interest or bear interest at one or more specified rates;

(3) be issued with one or more interest coupons or without a coupon;

(4) be issued as redeemable before maturity at one or more specified times; and

(5) be payable:

(A) at one or more times;

(B) in installments or a specified amount or amounts;

(C) at a specified place or places;

(D) under specified terms; and

(E) in a specified form or manner.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.022. Terms of Issuance.

(a) A public security may be:

(1) issued singly or in a series;

(2) made payable in a specified amount or amounts or installments to:

(A) the bearer;

(B) a registered or named person;

(C) the order of a registered or named person; or

(D) a successor or assign of a registered or named person;

(3) issued to be sold:

(A) at a public or private sale; and

(B) under the terms determined by the governing body of the issuer to be in the issuer's best interests; and

(4) issued with other specified characteristics, on additional specified terms, or in a specified manner.

(b) The governing body of a county or municipality that issues bonds that are to be paid from ad valorem taxes may provide that the bonds are to mature serially over a specified number of years, not to exceed 40.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts

2001, 77th Leg., ch. 769 (S.B. 1759), § 1, effective September 1, 2001.)

Sec. 1201.023. Uncertificated Book-Entry Issuance.

(a) The governing body of an issuer may provide for a book-entry record of ownership of a public security issued by the issuer. A public security may be issued in uncertificated book-entry form.

(b) The record of ownership of a public security issued in uncertificated book-entry form may be kept by the issuer or an agent of the issuer.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.024. Form of Public Security.

(a) A public security may be:

(1) issued in a specified form or forms;

(2) issued with one or more interest coupons;

(3) registrable as to principal and interest or only as to principal; and

(4) changed in form in a specific manner.

(b) A public security issued with one or more interest coupons may have:

(1) a specified form of a coupon; and

(2) a form of a coupon that may be changed in a specified manner.

(c) An issuer may provide that a public security:

(1) has a coupon and is not registrable;

(2) has a coupon and is registrable only as to principal;

(3) is fully registrable; or

(4) initially has a coupon but may become a fully registrable security under Section 1203.041.

(d) An issuer may provide that public securities of the same issue or series are:

(1) of one or more types described by Subsection (c); and

(2) exchangeable in whole or in part for one or more of those types.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.025. Rate of Interest.

(a) An interest rate on a public security that bears interest may be fixed, variable, floating, adjustable, or computed by another method.

(b) If an interest rate is not specified by the governing body of an issuer issuing a public security, the interest rate is determined by a formula or contractual arrangement for the periodic determination of the rate.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.001, effective September 1, 2001.)

Sec. 1201.026. Execution of Public Security or Interest Coupon.

(a) A public security or an interest coupon may be executed, with or without a seal, with a manual or facsimile signature.

(b) The signature on a public security or on an interest coupon of a person who is no longer an officer when the security or coupon is delivered to a purchaser is valid and sufficient for all purposes.

(c) A person's successor in office may complete the execution, authentication, or delivery of the public security or interest coupon.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.027. Authority of Issuer to Contract for Services.

(a) An issuer has exclusive authority to select, contract with, and determine the basis for compensation of a person to provide legal and other services as may be determined by the issuer to be necessary in connection with the issuer's issuance of public securities or administration of its affairs that pertain to the issuance of public securities. The selection of legal counsel shall be made in accordance with the provisions of Subchapter A, Chapter 2254, applicable to the selection by a governmental entity of a provider of professional engineering services.

(b) Subsection (a) does not impair the authority of the attorney general under Section 402.0212 to approve a contract for legal services entered into by a state agency.

(c) Except as provided by Subsection (b), to the extent of a conflict between this section and another law or a municipal charter, this section controls.

(d) An issuer of a state security, as defined by Section 1231.001, that selects or contracts with a person to provide services under Subsection (a) shall, on request, submit to the Bond Review Board:

(1) the request for proposals to provide the services not later than the date the request for proposals is published;

(2) each final proposal received to provide the services before a contract for the services is entered into by the issuer; and

(3) an executed contract entered into by an issuer for services under Subsection (a).

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 2, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 991 (S.B. 1332), § 1, effective September 1, 2007.)

Sec. 1201.028. Single Meeting of Governing Body Sufficient.

Notwithstanding any other law, including a provision in a municipal charter, the following actions

taken at a meeting of the governing body of an issuer are effective immediately and a subsequent meeting is not required:

(1) a resolution, order, or ordinance calling an election to:

(A) authorize the issuance and sale of a public security; or

(B) approve the resources, revenue, or income of the issuer that may be pledged as security for a public security;

(2) a resolution, order, or ordinance canvassing the results of an election described by Subdivision (1); or

(3) a public security authorization.

(Enacted by Acts 2001, 77th Leg., ch. 769 (S.B. 1759), § 2, effective September 1, 2001.)

Sec. 1201.029. Commissions Not to Be Paid from Principal.

In a public or private sale of public securities the principal amount of which is limited by law, by voted authorization, or by other means, for purposes of determining whether the principal amount of the public securities that are issued exceeds the limitation, amounts produced by the initial purchaser through market pricing of the public securities when the public securities are resold by the initial purchaser are not considered proceeds of the issuer if the amounts constitute all or part of the compensation of the initial purchaser.

(Enacted by Acts 2003, 78th Leg., ch. 1193 (S.B. 876), § 1, effective June 20, 2003.)

SUBCHAPTER C
FINANCIAL ASPECTS OF PUBLIC SECURITY

Sec. 1201.041. Public Security As Negotiable Instrument and Investment Security.

A public security is:

(1) a negotiable instrument;

(2) an investment security to which Chapter 8, Business & Commerce Code, applies; and

(3) a legal and authorized investment for:

(A) an insurance company;

(B) a fiduciary or trustee; or

(C) a sinking fund of a municipality or other political subdivision or public agency of this state.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.042. Use of Certain Proceeds.

(a) An issuer may use the proceeds of a public security issued to finance the acquisition, construction, or improvement of a project or facility to:

(1) pay interest on the public security while the project or facility is being acquired, constructed, or improved and for the year after it is acquired, constructed, or improved;

(2) operate and maintain the project or facility during the estimated period of acquisition, construction, or improvement of the project or facility and for one year after it is acquired, constructed, or improved;

(3) finance other funds relating to the public security, including debt service reserve and contingency; and

(4) pay the cost or expense of the issuance of the public security.

(b) To the extent and in the manner provided in a public security authorization, until the proceeds from a public security described by Subsection (a) are needed the proceeds may be:

(1) placed on time deposit; or

(2) invested in an obligation authorized for the investment of money of the issuer.

(c) Proceeds from the sale of a public security issued to finance the acquisition, construction, equipping, or furnishing of a project or facility may be used to reimburse the issuer for a cost that is:

(1) attributable to the project or facility; and

(2) paid or incurred before the date of the public security's issuance.

(d) An issuer may spend a premium received by the issuer as part of the purchase price of public securities sold at a public or private sale:

(1) to provide for payment of debt service on the public securities sold;

(2) to contribute to an escrow established to provide for payment of debt service on obligations being refunded through the sale of the public securities;

(3) to pay the cost or expense of issuing the public securities; or

(4) to pay any other cost related to the purpose for which the public securities were issued, as specified in the public security authorization.

(e) Subsection (d)(4) does not authorize an issuer to spend money in an amount that exceeds limitations provided by other law or by the public security authorization.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 270 (H.B. 1934), § 1, effective June 18, 2003.)

Sec. 1201.043. Use of Investment Income.

An issuer authorized to invest proceeds from the sale of a public security, including by placing the proceeds on time deposit, may use money earned

from the investment for the purpose for which the public security was issued.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.044. Pledge or Lien on Resources, Assets, or Fund of Issuer.

(a) A pledge or lien provided for in a public security authorization on a resource of an issuer, including revenue or income, on an asset of an issuer, or on a fund maintained by an issuer:

(1) is valid without further action by the issuer according to its terms and without being filed or recorded, except in the records of the issuer;

(2) is effective from the time of payment for and delivery of the public security until the public security is paid or payment of the public security has been provided for; and

(3) is effective as to an item on hand or later received, and the item is subject to the lien or pledge without physical delivery of the item or other act.

(b) This section does not exempt an issuer from a duty to:

(1) record a lien on real property; or

(2) submit a public security to the attorney general for approval and registration by the comptroller.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER D
CHANGE OR CONVERSION OF PUBLIC SECURITIES

Sec. 1201.061. Conversion, Reconversion, Transfer, or Exchange of Public Security.

(a) The governing body of an issuer may:

(1) provide and covenant for:

(A) conversion of one form of a public security or an interest coupon to another form or forms; and

(B) reconversion of the public security or interest coupon to another form or forms; and

(2) provide procedures for transferring or exchanging a public security for a previously issued public security.

(b) A public security or an interest coupon may be converted, on request of a bearer or owner, in an aggregate principal amount equal to the unpaid principal amount of the public security being converted, bearing interest at the same rate or rates as the security being converted, to:

(1) a public security with interest coupons, payable to the bearer, and registrable as to principal and interest or only as to principal;

(2) a fully registered public security without interest coupons; or

(3) any other form, in any denomination.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.062. Change or Conversion of Public Security.

If a public security authorization provides a procedure for changing or converting a public security, an additional resolution, order, or ordinance is not required to change or convert the security.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.063. Execution and Exchange of New Public Security.

(a) On request of the bearer or owner of a public security, if required or necessary, an appropriate officer of the issuer shall execute and exchange an appropriate new public security for the changed or converted public security.

(b) If a public security that is changed or converted has interest coupons, appropriate new coupons shall also be executed and exchanged.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.064. Submission of New Public Security to Attorney General.

Except as provided by Section 1201.067, an issuer that changes or converts a public security that has been registered by the comptroller shall submit the new public security to the attorney general for approval.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.065. Approval of New Public Security by Attorney General.

The attorney general shall approve a new public security if the attorney general finds that the new public security has been printed or entered on the books of the registrar and executed and issued as provided by law and a public security authorization relating to the public security being changed or converted.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.066. Registration of New Public Security by Comptroller.

(a) The comptroller shall register and deliver a new public security after:

(1) approval of the new public security by the attorney general; and

(2) the surrender to and the cancellation by the comptroller of each changed or converted public security.

(b) On registration the new public security is valid and incontestable for all purposes.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1201.067. Exception to Approval Requirement.

(a) If the duty to convert or reconvert a public security or interest coupon or to transfer or exchange a public security is imposed on a corporate trustee under a trust agreement or indenture securing the public security or on a paying agent for the public security, the attorney general is not required to approve and the comptroller is not required to register:

(1) the converted or reconverted public security or interest coupon; or

(2) the public security delivered on transfer or exchange of the previously issued public security.

(b) A converted or reconverted public security or interest coupon, or a transferred or exchanged public security, is valid and incontestable in the same manner and with the same effect as the previously issued public security.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

CHAPTER 1202
EXAMINATION AND REGISTRATION OF PUBLIC SECURITIES

Section

Sec. 1202.001. Definitions.

In this chapter:

(1) "Issuance" means the initial delivery by an issuer of evidence of an obligation of a public security issued by the issuer to the initial purchaser in exchange for the purchase price of the public security.

(2) "Issuer" means:

(A) an agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state; or

(B) a nonprofit corporation acting for or on behalf of an entity described by Paragraph (A).

(3) "Public security" means an instrument, including a bond, note, certificate of obligation, certificate of participation or other instrument evidencing a proportionate interest in payments due to be paid by an issuer, or other type of obligation that:

(A) is issued or incurred by an issuer under the issuer's borrowing power, without regard to whether it is subject to annual appropriation; and

(B) is represented by an instrument issued in bearer or registered form or is not represented by an instrument but the transfer of which is registered on books maintained for that purpose by or on behalf of the issuer.

(4) "Record of proceedings" means the record of an issuer's proceedings relating to the authorization of a public security or a credit agreement relating to a public security.

(5) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase a public security, purchase or sale agreement, interest rate swap agreement, or commitment or other agreement authorized by an issuer in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of a public security, interest on a public security, or both.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 802 (S.B. 495), § 1, effective September 1, 2005.)

Sec. 1202.002. Authority to Define Terms.

The attorney general may determine, by application of accepted legal principles, the meaning of a term used in this chapter, other than "issuance," "issuer," or "public security," and by rule define that term.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1202.003. Review and Approval of Public Securities.

(a) Before the issuance of a public security, the issuer shall submit the public security and the record of proceedings to the attorney general.

(b) If the attorney general finds that the public security has been authorized to be issued in conformity with law, the attorney general shall:

(1) approve the public security; and

(2) deliver to the comptroller:

(A) a copy of the attorney general's legal opinion stating that approval; and

(B) the record of proceedings.

(c) Unless exempted by Section 1202.007, the issuance of a public security except in compliance with this chapter is prohibited.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1202.004. Fee for Examination by Attorney General.

(a) When an issuer submits a record of proceedings to the attorney general for examination and approval as provided by law, the issuer shall pay a nonrefundable examination fee to the attorney general in accordance with this section.

(b) If the issuer is issuing multiple series of a single public security issue, the issuer shall pay the fee prescribed by this section for each series.

(c) Except as provided by Subsection (d), the nonrefundable examination fee required by this section is equal to the lesser of:

(1) one-tenth of one percent of the principal amount of the public security to which the record of proceedings relates; or

(2) $9,500.

(d) The minimum examination fee required by this section is $750.

(e) The attorney general may adopt rules necessary to administer this section.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 802 (S.B. 495), § 2, effective September 1, 2005.)

Sec. 1202.005. Registration.

On receipt of documents required by Section 1202.003(b)(2) from the attorney general, the comptroller shall register:

(1) the public security; and

(2) the record of proceedings.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1202.006. Validity and Incontestability.

(a) A public security and any contract the proceeds of which are pledged to the payment of the public security are valid and incontestable in a court or other forum and are binding obligations for all purposes according to their terms:

(1) after the public security is approved by the attorney general and registered by the comptroller; and

(2) on issuance of the public security.

(b) In any action brought to enforce the collection of county or municipal bonds that are payable from ad valorem taxes and that have been approved by the attorney general and registered by the comptroller, the certificate of the attorney general shall be admitted as evidence of the validity of the bonds and the interest coupons pertaining to the bonds.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1202.007. Exemptions; Construction of Exemptions.

(a) The following are exempt from the approval and registration requirements of this chapter:

(1) a public security that is:

(A) not subject to mandatory renewal or renewal at the option of any person, including the issuer, a holder, or a bearer; and

(B) payable only out of:

(i) current revenues or taxes collected in the year the public security is issued; or

(ii) the proceeds of other public securities;

(2) a certificate in evidence of benefit assessments;

(3) a certificate of obligation, including a claim or account that represents an undivided interest in a certificate of obligation, that under Subchapter C, Chapter 271, Local Government Code, an issuer is authorized to deliver to a contractor;

(4) a time warrant issued under Chapter 252 or 262, Local Government Code;

(5) a public security authorized by Chapter 1371;

(6) a lease, lease-purchase, or installment sale obligation, except as provided by other law;

(7) a public security that by rule the attorney general exempts because it is not practical to require approval before the public security's issuance; and

(8) a nonnegotiable note issued under Section 45.108, Education Code, in a principal amount that does not exceed $1 million.

(b) The exemptions provided by Subsection (a) shall be narrowly construed.

(c) An issuer that issues a public security that is exempt under Subsection (a) may submit the public security to the attorney general as provided by this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.002, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 1018 (H.B. 2610), § 3, effective September 1, 2013.)

Sec. 1202.008. Collection and Report of Information on Public Securities of Political Subdivisions.

(a) In reviewing public securities under this chapter, the attorney general may collect, in the form required by the Bond Review Board, information on public securities issued by a municipal corporation or political subdivision of this state.

(b) The information must include:

(1) the terms of the public securities;

(2) the debt service payable on the public securities; and

(3) other information required by the Bond Review Board.

(c) The attorney general shall send the information to the Bond Review Board for inclusion in the board's report of debt statistics under Section 1231.062.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

CHAPTER 1204
INTEREST RATE

Section

Sec. 1204.001. Definitions.

In this chapter:

(1) "Floating rate public security" means a public security or a portion of a public security that bears a rate of interest determined in accordance with a clearly stated formula, computation, or method, under which the net interest cost of the security or portion at any future date cannot be determined on the date of delivery of the security or portion.

(2) "Public agency" means:

(A) this state or a department, board, agency, district, municipal corporation, political subdivision, body politic and corporate, or instrumentality of this state; or

(B) a nonprofit corporation or not-for-profit entity that is an instrumentality of or is acting on behalf of an entity described by Paragraph (A).

(3) "Public security" means a bond, note, or other obligation that a public agency is authorized to issue.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1204.002. Applicability.

(a) A provision of this chapter concerning the sale price of a public security or the maximum rate of interest that a public security may bear applies to any public security without regard to a contrary provision in another law or a charter.

(b) A provision of this chapter concerning the sale price of a public security does not apply to a public security whose maximum rate of interest or maximum net effective interest rate is, at the time the public security is issued, specifically set by the constitution of this state.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1204.003. Computation of Public Security Years.

(a) Public security years are computed for each separate public security that is part of an issue or series of public securities by dividing the principal amount at par value of the public security by 100 and multiplying the resulting quotient by:

(1) the number of years from the date interest begins to accrue on the public security to the date the security is scheduled to mature; or

(2) for a floating rate public security, the number of years from the date net interest cost begins to accrue on the public security to the earlier of:

(A) the date the security is scheduled to mature; or

(B) any date interest on the security is computed.

(b) If any portion of an issue or series of public securities is subject to a mandatory redemption before the scheduled maturity that at the time of delivery of the public securities is scheduled to occur on a specific date or dates, the public security years are computed as if the face amount of public securities required to be redeemed on each earlier date were scheduled to mature on that earlier date.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1204.004. Computation of Net Interest Cost.

(a) In this section:

(1) "Discount" means an amount equal to the principal amount at par value of an issue or series of public securities plus any accrued interest to the date of delivery minus the total sum of money paid to the public agency.

(2) "Premium" means an amount equal to the total amount of money paid to the public agency for an issue or series of public securities minus:

(A) the principal amount at par value of the issue or series; and

(B) any accrued interest to the date of delivery.

(b) The net interest cost of an issue or series of public securities is the total of all interest to become payable on the issue or series through the final scheduled maturity date of the issue or series, plus any discount or minus any premium included in the price paid for the issue or series.

(c) The net interest cost of an issue or series of floating rate public securities is the total of all interest to accrue from the date of delivery and become payable on the issue or series through any date net interest cost is computed on the issue or series:

(1) plus, in the case of a discount, the figure obtained by multiplying the dollar amount of the discount by a fraction, the numerator of which is the aggregate number of public security years to the date of the net interest cost computation and the denominator of which is the aggregate number of public security years to the scheduled final maturity date of the floating rate public securities; or

(2) minus, in the case of a premium, the figure obtained by multiplying the dollar amount of the premium by a fraction, the numerator of which is the aggregate number of public security years to the date of the net interest cost computation and the denominator of which is the aggregate number of public security years to the scheduled final maturity date of the floating rate public securities.

(d) If any portion of an issue or series of public securities is subject to a mandatory redemption before the scheduled maturity that at the time of delivery of the public securities is scheduled to occur on a specific date or dates:

(1) the net interest cost is computed as if the face amount of public securities required to be redeemed on each earlier date were scheduled to mature on that earlier date;

(2) the net interest cost includes any redemption premium required to be paid on any mandatory redemption date; and

(3) any other form of compensation, whether due on an optional or mandatory prepayment or redemption, may not be included in the net interest cost.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1204.005. Computation of Net Effective Interest Rate.

(a) The net effective interest rate of an issue or series of public securities is computed by dividing the net interest cost of the issue or series by the aggregate total number of public security years of all public securities that comprise the issue or series and expressing the result as a rate of interest in percent per year.

(b) In computing the net effective interest rate of an issue or series of public securities that includes one or more public securities on which interest accruing before the maturity of the public security is compounded, the public security years with reference to each separate compounding public security are increased by an amount obtained by dividing the amount of interest that is periodically compounded by 100 and multiplying the resulting quotient by the number of years from the date on which interest begins to accrue on the amount that is being compounded to:

(1) the scheduled date for payment of the amount that is being compounded; or

(2) with respect to a floating rate public security, the date interest on the public security is next computed, if that date is earlier than the scheduled date for payment of the amount that is being compounded.

(c) For purposes of this chapter, interest compounded under Subsection (b) is considered as principal.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1204.006. Maximum Interest Rate.

(a) The maximum rate of interest for any issue or series of public securities, including an issue or series that is issued in exchange for property, labor, services, materials, or equipment under another law, is a net effective interest rate of 15 percent.

(b) Except as provided by Section 1204.007, a public agency may issue and sell any issue or series of its public securities at any price and bearing interest at any rate or rates determined by the agency's governing body that does not exceed the maximum rate under Subsection (a).

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1204.007. Maximum Interest Rate for Certain Public Securities.

(a) Public securities authorized by an election held before April 15, 1981, may be issued, may be sold, and may bear interest as provided by Section 1204.006, except that public securities authorized by an election required by the constitution of this state may not be issued at an interest rate greater than the rate authorized at that election unless an additional election is held at which the issuance of the public securities at a price and at a rate authorized by Section 1204.006 is approved.

(b) A public agency shall hold and give notice of an additional election under Subsection (a) in the manner provided by law applicable to the election that authorized the public securities.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

CHAPTER 1205
PUBLIC SECURITY DECLARATORY JUDGMENT ACTIONS

Subchapter A. General Provisions

Subchapter B. Declaratory Judgment Action

Subchapter C. Notice of Declaratory Judgment Action

Subchapter D. Trial and Appeal Proceedings

Subchapter E. Security for Issuer

Subchapter F. Effect of Declaratory Judgment

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1205.001. Definitions.

In this chapter:

(1) "Issuer" means an agency, authority, board, body politic, commission, department, district, instrumentality, municipality or other political subdivision, or public corporation of this state. The term includes a state-supported institution of higher education and any other type of political or governmental entity of this state.

(2) "Public security" means an interest-bearing obligation, including a bond, bond anticipation note, certificate, note, warrant, or other evidence of indebtedness, regardless of whether the obligation is:

(A) general or special;

(B) negotiable;

(C) in bearer or registered form;

(D) in temporary or permanent form;

(E) issued with interest coupons; or

(F) to be repaid from taxes, revenue, both taxes and revenue, or in another manner.

(3) "Public security authorization" means an action or proceeding by an issuer taken, made, or proposed to be taken or made in connection with or affecting a public security.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.002. Conflict or Inconsistency with Other Laws.

(a) To the extent of a conflict or inconsistency between this chapter and another law, this chapter controls.

(b) This chapter does not prohibit an issuer from applying to the Texas Supreme Court for a writ of mandamus to the attorney general for the approval of a bond, and the court is authorized to issue the writ.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER B
DECLARATORY JUDGMENT ACTION

Sec. 1205.021. Authority to Bring Action.

An issuer may bring an action under this chapter to obtain a declaratory judgment as to:

(1) the authority of the issuer to issue the public securities;

(2) the legality and validity of each public security authorization relating to the public securities, including if appropriate:

(A) the election at which the public securities were authorized;

(B) the organization or boundaries of the issuer;

(C) the imposition of an assessment, a tax, or a tax lien;

(D) the execution or proposed execution of a contract;

(E) the imposition of a rate, fee, charge, or toll or the enforcement of a remedy relating to the imposition of that rate, fee, charge, or toll; and

(F) the pledge or encumbrance of a tax, revenue, receipts, or property to secure the public securities;

(3) the legality and validity of each expenditure or proposed expenditure of money relating to the public securities; and

(4) the legality and validity of the public securities.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.022. Venue.

An issuer may bring an action under this chapter in a district court of Travis County or of the county in which the issuer has its principal office.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.023. Proceeding In Rem; Class Action.

An action under this chapter is:

(1) a proceeding in rem; and

(2) a class action binding on all persons who:

(A) reside in the territory of the issuer;

(B) own property located within the boundaries of the issuer;

(C) are taxpayers of the issuer; or

(D) have or claim a right, title, or interest in any property or money to be affected by the public security authorization or the issuance of the public securities.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 3, effective September 1, 1999.)

Sec. 1205.024. Pleading Contents.

The petition in an action under this chapter must briefly set out, by allegation, reference, or exhibit:

(1) the issuer's authority to issue the public securities;

(2) the purpose of the public securities;

(3) the holding and result of any required election;

(4) a copy of or a pertinent excerpt from each public security authorization, including any essential action or expenditure of money;

(5) the amount or proposed maximum amount of the public securities;

(6) the interest rate or rates or the proposed maximum interest rate of the public securities;

(7) in a suit relating to the validity or organization of an issuer, the authority for and the proceedings relating to the creation of the issuer or a boundary change; and

(8) any other pertinent matter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.025. Time for Bringing Action; Pendency of Other Proceedings.

An issuer may bring an action under this chapter:

(1) concurrently with or after the use of another procedure to obtain a declaratory judgment, approval, or validation;

(2) before or after the public securities are authorized, issued, or delivered;

(3) before or after the attorney general approves the public securities; and

(4) regardless of whether another proceeding is pending in any court relating to a matter to be adjudicated in the suit.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER C
NOTICE OF DECLARATORY JUDGMENT ACTION

Sec. 1205.041. Notice to Interested Parties.

(a) The court in which an action under this chapter is brought shall, on receipt of the petition, immediately issue an order, in the form of a notice, directed to all persons who:

(1) reside in the territory of the issuer;

(2) own property located within the boundaries of the issuer;

(3) are taxpayers of the issuer; or

(4) have or claim a right, title, or interest in any property or money to be affected by a public security authorization or the issuance of the public securities.

(b) The order must, in general terms and without naming them, advise the persons described by Subsection (a) and the attorney general of their right to:

(1) appear for trial at 10 a.m. on the first Monday after the 20th day after the date of the order; and

(2) show cause why the petition should not be granted and the public securities or the public security authorization validated and confirmed.

(c) The order must give a general description of the petition but is not required to contain the entire petition or any exhibit attached to the petition.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 4, effective September 1, 1999.)

Sec. 1205.042. Service of Notice on Attorney General; Waiver of Service.

(a) A copy of the issuer's petition with all attached exhibits and a copy of the order issued under Section 1205.041(a) shall be served on the attorney general before the 20th day before the trial date.

(b) The attorney general may waive the service if the attorney general has been provided a certified copy of the petition, order, and a transcript of each pertinent public security authorization relating to the matters described in the petition.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.043. Publication of Notice.

(a) The clerk of the court shall give notice by publishing a substantial copy of the order issued under Section 1205.041(a) in a newspaper of general circulation in:

(1) Travis County;

(2) the county where the issuer has its principal office; and

(3) if the issuer has defined boundaries, each county in which the issuer has territory.

(b) The notice shall be published once in each of two consecutive calendar weeks, with the date of the first publication before the 14th day before the trial date.

(c) If the issuer is this state, Subsection (a)(3) does not apply.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.044. Effect of Publication.

The effect of notice given under Sections 1205.041 and 1205.043 is that:

(1) each person described by Section 1205.041(a) is a party to the action; and

(2) the court has jurisdiction over each person to the same extent as if that person were individually named and personally served in the action.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 5, effective September 1, 1999.)

SUBCHAPTER D
TRIAL AND APPEAL PROCEEDINGS

Sec. 1205.061. Court's Power to Enjoin Other Proceedings.

(a) On the issuer's motion, before or after the trial date set under Section 1205.041, the court may enjoin the commencement, prosecution, or maintenance of any proceeding by any person that contests the validity of:

(1) any organizational proceeding or boundary change of the issuer;

(2) public securities that are described in the petition for declaratory judgment action;

(3) a public security authorization relating to the public securities;

(4) an action or expenditure of money relating to the public securities, a proposed action or expenditure, or both;

(5) a tax, assessment, toll, fee, rate, or other charge authorized to be imposed or made for the payment of the public securities or interest on the public securities; or

(6) a pledge of any revenue, receipt, or property, or an encumbrance on a tax, assessment, toll, fee, rate, or other charge, to secure that payment.

(b) The court may:

(1) order a joint trial on all issues pending in any other proceeding in a court in this state and the consolidation of the proceeding with the action under this chapter; and

(2) issue necessary or proper orders to effect the consolidation that will avoid unnecessary costs or delays or a multiplicity of proceedings.

(c) An interlocutory order issued under this section is final and may not be appealed.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.062. Answer or Intervention by Interested Parties.

A person described by Section 1205.041(a) may become a named party to an action brought under this chapter by:

(1) filing an answer with the court at or before the time set for trial under Section 1205.041; or

(2) intervening, with leave of court, after the trial date.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.063. Duties of Attorney General.

(a) The attorney general shall examine a petition

filed under Section 1205.021, and shall raise appropriate defenses if the attorney general believes that:

(1) the petition is defective, insufficient, or untrue; or

(2) the public securities are, or the public security authorization or an expenditure of money relating to the public securities is, or will be invalid or unauthorized.

(b) If the attorney general does not question the validity of the public securities, the public security authorization, or an expenditure of money relating to the public securities or the security or provisions for the payment of the public securities, the attorney general may:

(1) state that belief; and

(2) on a finding by the court to that effect, be dismissed as a party.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.064. Inspection of Records of Issuer.

(a) Each record of an issuer relating to the public securities, a public security authorization, or an expenditure of money relating to the public securities is open to inspection at reasonable times to any party to an action under this chapter.

(b) Each officer, agent, or employee with possession, custody, or control of any book, paper, or record of the issuer shall, on demand of the attorney general:

(1) allow examination of the book, paper, or record; and

(2) without cost, provide an authenticated copy that pertains to or may affect the legality of the public securities, public security authorization, or an expenditure of money relating to the public securities.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.065. Trial of Action.

(a) The court shall with the least possible delay:

(1) hear and determine each legal or factual question in the declaratory judgment action; and

(2) render a final judgment.

(b) Regardless of the pendency of an appeal from an order entered under Subchapter E, on motion of the issuer, the trial judge shall proceed under Subsection (a).

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.066. Court Costs and Other Expenses.

(a) An issuer that brings an action under this chapter shall pay costs of the action, except as provided by Subsection (b).

(b) The court may require a person other than the attorney general who appears and contests or intervenes in the action to pay all or part of the costs as the court determines equitable and just.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.067. Mileage and Travel Expenses of Attorney General.

(a) If an action under this chapter is brought in a county other than Travis County, the issuer shall pay any mileage or travel expense of the attorney general or an assistant attorney general in the amount this state allows to an official of this state for travel on official business.

(b) A claim for an expense under Subsection (a):

(1) must be filed in duplicate with the clerk of the court in which the action is pending; and

(2) shall be taxed as a cost against the issuer.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.068. Appeals.

(a) Any party to an action under this chapter may appeal to the appropriate court of appeals:

(1) an order entered by the trial court under Section 1205.103 or 1205.104; or

(2) the judgment rendered by the trial court.

(b) A party may take a direct appeal to the supreme court as provided by Section 22.001(c).

(c) An order or judgment from which an appeal is not taken is final.

(d) An order or judgment of a court of appeals may be appealed to the supreme court.

(e) An appeal under this section is governed by the rules of the supreme court for accelerated appeals in civil cases and takes priority over any other matter, other than writs of habeas corpus, pending in the appellate court. The appellate court shall render its final order or judgment with the least possible delay.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 6, effective September 1, 1999.)

Sec. 1205.069. Legislative Continuances.

Rule 254, Texas Rules of Civil Procedure, and Section 30.003, Civil Practice and Remedies Code, do not apply to a suit or an appeal under this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER E
SECURITY FOR ISSUER

Sec. 1205.101. Security Against Suit.

(a) Before the entry of final judgment in an action under this chapter, the issuer may file a motion with the court for an order that any opposing party or intervenor, other than the attorney general, be dismissed unless that person posts a bond with sufficient surety, approved by the court, and payable to the issuer for any damage or cost that may occur because of the delay caused by the continued participation of the opposing party or intervenor in the action if the issuer finally prevails and obtains substantially the judgment requested in its petition.

(b) On receipt of a motion under Subsection (a), the court shall issue an order directed to the opposing party or intervenor, with a copy of the motion, to be served on the opposing party, the intervenor, or the party's attorney, personally or by registered mail, requiring the opposing party or intervenor to:

(1) appear at the time and place directed by the court, not sooner than five nor later than 10 days after the date the order is entered; and

(2) show cause why the motion should not be granted.

(c) The court may direct that motions relating to more than one party or intervenor be heard together.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.102. Standard for Granting of Motion.

The court shall grant an issuer's motion for security under Section 1205.101 unless, at the hearing on the motion, the opposing party or intervenor establishes that the person is entitled to a temporary injunction against the issuance of the public securities.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.103. Amount of Bond.

(a) The court that grants a motion under this subchapter as to a particular opposing party or intervenor shall in the order set the amount of the bond to be posted by that person.

(b) The bond must be in an amount determined by the court to be sufficient to cover any damage or cost, including an anticipated increase in interest rates or in a construction or financing cost, that may occur because of the delay caused by the continued participation of the opposing party or intervenor in the acts if the issuer finally prevails and obtains substantially the judgment requested in its petition.

(c) The court may receive evidence at the hearing or during any adjournment relating to the amount of the potential damage or cost.

(d) The court may allocate the amount of the bond among opposing parties and intervenors according to the extent of their participation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.104. Failure to File Bond.

(a) The court shall dismiss an opposing party or intervenor who does not file a required bond before the 11th day after the date of the entry of the order setting the amount of the bond.

(b) A dismissal under this section is a final judgment of the court, unless appealed under Section 1205.068.

(c) No court has further jurisdiction over any action to the extent that action involves any issue that was or could have been raised in the action under this chapter, other than an issue that may have been raised by an opposing party or intervenor who was not subject to the motion.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.105. Appeal.

(a) An order setting the amount of a bond denying the motion of an issuer for a bond, or dismissing a party for failure to file a bond may be appealed under Section 1205.068.

(b) An appellate court may:

(1) modify an order of a lower court; and

(2) enter the modified order as the final order.

(c) If an appeal is not taken or if the appeal is taken and the order of the lower court is affirmed or affirmed as modified, and the required bond is not posted before the 11th day after the date of the entry of the appropriate order, no court has further jurisdiction over any action to the extent it involves an issue that was or could have been raised in the action under this chapter, other than an issue that may have been raised by an opposing party or intervenor who was not subject to the motion.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER F
EFFECT OF DECLARATORY JUDGMENT

Sec. 1205.151. Effect of Judgment.

(a) This section applies to a final judgment of a district court in an action under this chapter that holds that:

(1) the issuer had or has the authority on the terms set out in the issuer's petition to:

(A) issue the public securities; or

(B) take each public security authorization; and

(2) each public security authorization and expenditure of money relating to the public securities was legal.

(b) The judgment, as to each adjudicated matter and each matter that could have been raised, is binding and conclusive against:

(1) the issuer;

(2) the attorney general;

(3) the comptroller; and

(4) any party to the action, whether:

(A) named and served with the notice of the proceedings; or

(B) described by Section 1205.041(a).

(c) The judgment is a permanent injunction against the filing by any person of any proceeding contesting the validity of:

(1) the public securities, a public security authorization, or an expenditure of money relating to the public securities described in the petition;

(2) each provision made for the payment of the public securities or of any interest on the public securities; and

(3) any adjudicated matter and any matter that could have been raised in the action.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1205.152. Statement on Validated Public Security.

(a) The issuer of a public security validated under this chapter may have written on the public security the following certificate: "This obligation was validated and confirmed by a judgment entered _____ (date when the judgment was entered; the court entering the judgment; and the style and number of the declaratory judgment action), which perpetually enjoins the commencement of any suit, action, or proceeding involving the validity of this obligation, or the provision made for the payment of the principal and interest of the obligation."

(b) The clerk, secretary, or other official of the issuer may sign the certificate.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

CHAPTER 1207
REFUNDING BONDS

Subchapter A. General Provisions

Subchapter B. Advance Refunding Procedures

Subchapter C. Direct Deposit with Paying Agent

Subchapter D. Exchange Refunding Procedures

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1207.001. Definitions.

In this chapter:

(1) "Issuer" means this state or any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of this state which has the power to borrow money and issue bonds, notes, or other evidences of indebtedness. The term includes a county, municipality, state-supported institution of higher education, junior college district, regional college district, school district, hospital district, water district, road district, navigation district, conservation district, and any

other kind or type of political or governmental entity.

(2) "Paying agent" means the person, including the bank or trust company, at whose location payment of refunded obligations is to be made.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.002. Authority to Issue.

An issuer may issue refunding bonds under this chapter to refund all or any part of the issuer's outstanding bonds, notes, or other general or special obligations.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.003. Election.

(a) Refunding bonds may be issued without an election in connection with the issuance of the refunding bonds or the creation of an encumbrance in connection with the refunding bonds, except as provided by Subsection (b).

(b) If the constitution of this state requires an election to permit a procedure, action, or matter pertaining to refunding bonds, an election to authorize the procedure, action, or matter shall be held substantially in accordance, to the extent appropriate, with Chapter 1251.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.004. Combination Issuance.

Under the terms and with the security set forth in the proceedings that authorize the issuance of the refunding bonds, a governmental entity may issue refunding bonds:

(1) in combination with new bonds;

(2) with provision for the subsequent issuance of additional parity bonds or subordinate lien bonds; or

(3) both in combination with new bonds and with provision for the subsequent issuance of additional bonds.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.005. Sources Available for Payment.

Except as provided by Section 1207.0621, a refunding bond may be secured by and made payable from taxes, revenue, or both, another source, or a combination of sources to the extent the issuer is otherwise authorized to secure or pay any type of bond by or from that source or those sources.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.003, effective September 1, 2001.)

Sec. 1207.006. Maturity.

A refunding bond issued under this chapter must mature not later than 40 years after its date.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.007. Delegation of Authority.

(a) In connection with the issuance of refunding bonds, the governing body of an issuer may:

(1) authorize the maximum principal amount of refunding bonds that may be issued and the maximum rate of interest to be borne by the bonds;

(2) identify the potential bonds, notes, or other general or special obligations that may be refunded;

(3) recite the public purpose for which the refunding bonds are to be issued; and

(4) delegate to any officer or employee of the issuer the authority to:

(A) select any specific maturities or series of bonds, notes, or other general or special obligations to be refunded; and

(B) effect the sale of the refunding bonds.

(b) In exercising the authority delegated by the governing body of the issuer to the officer or employee, the officer or employee may establish the terms and details related to the issuance and sale or exchange of the refunding bonds, including:

(1) the form and designation of the refunding bonds;

(2) the principal amount of the refunding bonds and the amount of the refunding bonds to mature in each year;

(3) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of the refunding bonds;

(4) the form of escrow agreement described by Section 1207.062; and

(5) any other details relating to the issuance and sale or exchange of the refunding bonds as specified by the governing body of the issuer in the proceedings authorizing the issuance of the refunding bonds.

(c) A finding or determination made by an officer or employee acting under the authority delegated to the officer or employee has the same force and effect as a finding or determination made by the governing body of the issuer.

(Enacted by Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 7, effective September 1, 1999.)

Sec. 1207.008. Limitation.

(a) An issuer may not issue refunding bonds if the aggregate amount of payments to be made under the refunding bonds exceeds the aggregate amount of payments that would have been made under the terms of the obligations being refunded unless:

(1) the governing body of the issuer, in the proceedings authorizing the issuance of the refunding bonds, finds that the issuance is in the best interests of the issuer; and

(2) the maximum amount by which the aggregate amount of payments to be made under the refunding bonds exceeds the aggregate amount of payments that would have been made under the terms of the obligations being refunded is specified in the proceedings.

(b) An issuer is not required to comply with Subsection (a)(2) if the governing body of the issuer determines and states in the proceedings authorizing the issuance of the refunding bonds that the manner in which the refunding is being executed does not make it practicable to make the determination required by that subsection.

(Enacted by Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 7, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 769 (S.B. 1759), § 4, effective September 1, 2001.)

SUBCHAPTER B
ADVANCE REFUNDING PROCEDURES

Sec. 1207.021. Authority to Deposit with Comptroller.

(a) An issuer is entitled to deposit with the comptroller an amount of money equal to the sum of:

(1) the principal amount of the bonds, notes, or other obligations to be refunded;

(2) the interest that will accrue on those bonds, notes, or other obligations computed to the due date or redemption date; and

(3) any required redemption premium.

(b) At the time a deposit is made under Subsection (a), the issuer shall deliver to the comptroller a certified copy of the proceedings that authorize the issuance of the obligations to be refunded, or a certified excerpt from those proceedings, that clearly shows:

(1) each amount of interest and the date on which that amount of interest is due on the obligations to be refunded;

(2) the date the principal is subject to redemption; and

(3) the name and address of the paying agent.

(c) The comptroller may rely on a certificate by the issuer as to the amount of the charges made by the paying agent.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.022. Limitation.

An issuer may issue refunding bonds to make a deposit under this subchapter or Subchapter C only in connection with refunding bonds issued to refund obligations that are:

(1) scheduled to mature not later than the 20th anniversary of the date of the refunding bonds; or

(2) subject to redemption before maturity not later than the 20th anniversary of the date of the refunding bonds.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 8, effective September 1, 1999.)

Sec. 1207.023. Amount of Principal.

Refunding bonds for which a deposit is made under this subchapter or Subchapter C may be issued in an additional amount sufficient to:

(1) pay the cost and expense of issuing the bonds; or

(2) finance a debt service reserve, contingency, or other similar fund the issuer considers necessary or advisable.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.024. Methods and Terms of Sale.

(a) Refunding bonds issued to make a deposit under this subchapter or Subchapter C shall be sold for cash in a principal amount necessary to provide all or part of the money required to:

(1) pay the principal of the obligations to be refunded and the interest to accrue on those obligations to their maturity; or

(2) redeem the obligations to be refunded, before maturity, on the date or dates the obligations are subject to redemption, including the principal, interest to accrue on the obligations to their redemption date or dates, and any required redemption premium.

(b) The refunding bonds:

(1) shall be sold under the terms and procedures for the sale as determined by the governing body of the issuer; and

(2) may be sold at public or private sale.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.025. Registration Before Deposit; Registration Without Cancellation of Obligations to Be Refunded.

(a) The comptroller may register refunding bonds as provided by Chapter 1202 before a deposit required by this subchapter or Subchapter C is made.

(b) If the issuer has complied with each applicable requirement of this chapter, the comptroller shall register refunding bonds issued to make a deposit under this subchapter without the surrender, exchange, or cancellation of the obligations to be refunded.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 9, effective September 1, 1999.)

Sec. 1207.026. Use of Sale Proceeds to Make Deposit; Rights Not Dependent on Cancellation of Obligations to Be Refunded.

(a) An issuer may sell and deliver refunding bonds that have been registered with the comptroller so as to permit the issuer, in a timely manner determined by the issuer, to use proceeds from the sale to make all or any part of a deposit under this chapter.

(b) An issuer that has complied with this chapter may issue, register, sell, or deliver a refunding bond in lieu of the obligation to be refunded regardless of whether:

(1) the holder of the obligation to be refunded has surrendered or presented the obligation for payment and cancellation; or

(2) the obligation to be refunded has been canceled.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.027. Comptroller to Accept and Keep Safe Deposits.

(a) The comptroller shall:

(1) accept each deposit, payment, or instrument received under this subchapter; and

(2) safely keep and use the money only for a purpose specified in this subchapter.

(b) Money deposited with the comptroller under this subchapter may not be:

(1) used by or for the benefit of this state or for the benefit of a creditor of this state, except as provided by Section 1207.032; or

(2) commingled with other money.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.028. Comptroller to Send and Record Deposit or Payment.

(a) After receipt of a deposit or payment under this subchapter, the comptroller shall immediately and by the most expeditious means send to the paying agent for the obligation being refunded an amount equal to the deposit or payment less the amount of any fee charged under Section 1207.032.

(b) The comptroller shall notify the paying agent to send to the comptroller the obligation being refunded.

(c) After the comptroller has made a record of its payment and cancellation, the comptroller shall send the obligation being refunded and any interest coupon to the issuer.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.029. Selection of Paying Agent.

If there is more than one paying agent for an obligation being refunded, the comptroller shall send the money directly to:

(1) the paying agent located in this state, if only one paying agent is located in this state;

(2) the paying agent located in this state having the largest capital and surplus, if more than one paying agent is located in this state; or

(3) the paying agent having the largest capital and surplus, if no paying agent is located in this state and more than one paying agent is located in another state.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.030. Establishment and Use of Trust Fund.

(a) The paying agent shall deposit the money received from the comptroller, except that amount representing the charges of the paying agent, in an interest and sinking fund to be established and maintained as a trust fund for the payment of the obligation being refunded.

(b) The paying agent shall, from the interest and sinking fund, pay or redeem the obligations to be refunded when properly presented for payment or redemption.

(c) If there is more than one paying agent, the agent to whom the comptroller sent the money under Section 1207.029 shall make appropriate financial arrangements to ensure that the necessary money will be available to any other paying agent to pay or redeem an obligation to be refunded when presented for payment or redemption.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.031. Withdrawal of Deposit.

(a) An issuer that has made the deposit and payments required by this subchapter may apply to the comptroller to withdraw from the paying agent the amount of money deposited to the credit of the account of an obligation that has been refunded, including interest and premium, if any, by exhibiting the canceled obligation to the comptroller. The comptroller shall make a proper record of payment and cancellation of that obligation.

(b) An issuer may withdraw money deposited under this subchapter only if:

(1) the conditions stated in Subsection (a) are met; or

(2) the attorney general certifies to the comptroller that the issuer's payment of the obligation as to which the deposit was made is barred by limitation and forbidden by law.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.032. Comptroller Fees.

The comptroller may charge a reasonable fee for a service performed under this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.033. Discharge.

(a) A deposit of money made under this chapter is considered to be the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations to be refunded or to be paid or redeemed wholly or partly without the issuance of refunding bonds if the deposit is made on or before the payment or redemption date or dates of the obligations.

(b) An issuer may provide in the proceedings authorizing the issuance of the refunding bonds that the refunding bonds are subordinate to the obligations to be refunded. The subordination may be made only in the manner and to the extent specifically provided by those proceedings.

(c) After firm banking and financial arrangements for the discharge and final payment or redemption of the obligations have been made under Subsection (a), all rights of an issuer to initiate proceedings to call the obligations for redemption or take any other action amending the terms of the obligations are extinguished. The right to call the obligations for redemption is not extinguished if the issuer:

(1) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the obligations for redemption;

(2) gives notice of the reservation of that right to the owners of the obligations immediately following the making of the firm banking and financial arrangements; and

(3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(d) Subsection (c) applies only to firm banking and financial arrangements made on or after September 1, 1999, and has no effect on the validity or legality of any such arrangements made before that date.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 10, effective September 1, 1999.)

Sec. 1207.034. Right to Demand or Receive Early Payment.

The holder of an obligation to be refunded by refunding bonds may not demand or receive payment of the obligation to be refunded before its scheduled maturity date, due date, or redemption date unless the proceedings authorizing the refunding bonds specifically provide for the earlier payment.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.035. Conflict or Inconsistency with Other Laws.

To the extent of a conflict or inconsistency between this subchapter and another law, this subchapter controls.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER C
DIRECT DEPOSIT WITH PAYING AGENT

Sec. 1207.061. Authority to Deposit Directly.

(a) An issuer may, in lieu of making a deposit with the comptroller under Subchapter B, deposit an amount of money sufficient to provide for the payment or redemption of the obligations, including assumed obligations, to be refunded or to be paid or redeemed in whole or in part without issuing refunding bonds, directly with:

(1) a paying agent for any of the obligations to be refunded, paid, or redeemed;

(2) the trustee under a trust indenture, deed of trust, or similar instrument providing security for the obligations to be refunded, paid, or redeemed; or

(3) a trust company or commercial bank other than one described by Subdivision (1) or (2) that:

(A) does not act as a depository for the issuer; and

(B) is named in the proceedings of the issuer authorizing execution of an agreement under Section 1207.062.

(b) An issuer may make a deposit under this section from any source, including the proceeds from the sale of the refunding bonds.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 769 (S.B. 1759), § 5, effective September 1, 2001.)

Sec. 1207.062. Escrow Agreement.

(a) An issuer may enter into an escrow or similar agreement with a person described by Section 1207.061(a) with respect to the safekeeping, investment, administration, and disposition of a deposit made under Section 1207.061.

(b) A deposit under Section 1207.061 may be invested only in:

(1) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States;

(2) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; and

(3) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent.

(c) A deposit under Section 1207.061 may be invested only in obligations that mature and bear interest payable at times and in amounts sufficient to provide for the scheduled payment or redemption of the obligation to be refunded. The obligations may be in book-entry form.

(d) An issuer shall enter into an agreement under Subsection (a) if an obligation to be refunded is scheduled to be paid or redeemed on a date later than the next scheduled interest payment date on the obligation.

(e) Notwithstanding Subsection (b), a deposit under an escrow agreement entered into under Subsection (a) before September 1, 1999, may not be invested in an investment described by Subsection (b)(2) or (3).

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 11, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 769 (S.B. 1759), § 6, effective September 1, 2001.)

Sec. 1207.0621. Sources Available for Payment.

An issuer may pledge to the payment of a refunding bond issued to make a deposit under this subchapter:

(1) any surplus income to be earned from the investment of a deposit made under this subchapter;

(2) any other available revenue, income, or resource; or

(3) both surplus income described by Subdivision (1) and any other available revenue, income, or resource.

(Enacted by Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.003, effective September 1, 2001.)

Sec. 1207.063. Duty to Comply.

A person described by Section 1201.061(a) that enters into an agreement under Section 1207.062 shall comply with each term of that agreement and, from the deposited money and in the manner and to the extent provided by the agreement, make available to any other paying agent or trustee for an obligation of the same or a different series of obligations to be refunded, paid, or redeemed, the amounts required by the terms of the obligation to pay or redeem the principal of and interest on the obligation when due.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 769 (S.B. 1759), § 7, effective September 1, 2001.)

Sec. 1207.064. Incontestability of Certain Escrow Agreements and Contracts.

After the registration of a refunding bond and the sale and delivery of the bond to the purchaser, the proceedings that authorize the refunding bond, any escrow agreement relating to the refunding bond,

and any contract providing security or payments with respect to the refunding bond are:

(1) incontestable in any court or other forum for any reason; and

(2) valid and binding obligations in accordance with their terms for any purpose.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBCHAPTER D
EXCHANGE REFUNDING PROCEDURES

Sec. 1207.081. Issuance in Exchange for Obligation to Be Refunded; Limitation.

(a) Refunding bonds may be issued to be exchanged under this subchapter for, and on the surrender and cancellation of, the obligations to be refunded.

(b) The comptroller shall register a refunding bond and deliver it to the holder of the obligation to be refunded, in accordance with the proceedings authorizing the refunding bond. The exchange may be made in one delivery or in installment deliveries.

(c) [Repealed by Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 47(1), effective September 1, 1999.]

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1064 (H.B. 3224), § 47(1), effective September 1, 1999.)

Sec. 1207.082. Limitation on Authority to Partially Refund.

An issuer may issue refunding bonds to be exchanged under this subchapter to refund part of an outstanding issue of bonds, notes, or other obligations only if the issuer demonstrates to the attorney general at the time of the refunding that, based on then current conditions, the issuer will have adequate resources available at the times required to provide for the payment of the unrefunded part of the outstanding issue when due.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.083. Other Powers of Issuer.

To the extent necessary or convenient in carrying out a power under this subchapter, an issuer may use the provisions of any other law that does not conflict with this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1207.084. Conflict or Inconsistency with Other Laws.

When bonds are being issued to be exchanged under this subchapter, to the extent of a conflict or inconsistency between this subchapter and another law, this subchapter controls.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

SUBTITLE H
SPECIFIC AUTHORITY FOR MORE THAN ONE TYPE OF LOCAL GOVERNMENT TO ISSUE SECURITIES

CHAPTER 1432
BONDS FOR LOCAL GOVERNMENT SPORTS CENTERS

Section

Sec. 1432.001. Applicability of Chapter.

(a) This chapter applies only to a local government that has all or most of its territory located in a county with a population of more than 1.3 million.

(b) Two or more local governments may act jointly under this chapter if:

(1) each local government is individually authorized to act under this chapter;

(2) all or most of the territory of each local government is located in the same county or in adjacent counties; and

(3) the local governments act jointly to perform each official act.

(c) Local governments acting jointly may perform any act that a single local government may perform under this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 669 (H.B. 2810), § 24, effective September 1, 2001.)

Sec. 1432.002. Definitions.

In this chapter:

(1) "Bond authorization" means an ordinance of the governing body of a municipality, a resolution of the board of trustees of an independent school

district, or an order of the commissioners court of a county that authorizes the issuance of bonds.

(2) "Local government" means a county, a municipality, or an independent school district.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.003. Authority for Sports Centers.

(a) A local government may construct, acquire, lease, improve, enlarge, and operate one or more facilities used for sporting activities or events, including auxiliary facilities such as parking areas or restaurants.

(b) A local government may contract with any public or private entity, including a coliseum advisory board or similar body, to perform any function authorized under this chapter other than an official governmental act that must be performed by the governing body of a local government.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.004. Authority to Issue Revenue Bonds.

The governing body of a local government may issue revenue bonds for a purpose authorized by Section 1432.003.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.005. Pledge of Revenue.

A local government may pledge all or part of the revenue, income, or receipts from a facility authorized by this chapter to the payment of bonds, including principal, interest, and any other amounts required or permitted in connection with the bonds.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.006. Additional Security.

(a) Bonds issued under this chapter may be additionally secured by:

(1) an encumbrance on any real property relating to a facility authorized by this chapter owned or to be acquired by the local government;

(2) an encumbrance on any personal property appurtenant to that real property; or

(3) a pledge of any portion of any grant, donation, revenue, or income received or to be received from the United States or any other public or private source.

(b) The governing body of the local government may authorize the execution of a trust indenture, mortgage, deed of trust, or other instrument as evidence of the encumbrance.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.007. Bonds Not Payable from Taxes.

A holder of a bond issued under this chapter is not entitled to demand payment of the bond from money raised by taxation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.008. Maturity.

A bond issued under this chapter must mature not later than 40 years after its date.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.009. Additional Bonds.

The bond authorization may provide for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms specified in the authorization.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.010. Sale of Bonds.

A local government may sell bonds issued under this chapter in the manner and under the terms provided by the bond authorization.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.011. Review and Approval of Contracts Relating to Bonds.

(a) If bonds issued under this chapter state that they are secured by a pledge of revenue or rents from a contract, including a lease contract, a copy of the contract and the proceedings related to it must be submitted to the attorney general.

(b) If the attorney general finds that the bonds have been authorized and the contract has been made in accordance with law, the attorney general shall approve the contract.

(c) After the bonds are approved and registered as provided by Chapter 1202 and the contract is approved under Subsection (b), the contract is incontestable in a court or other forum for any reason and is a valid and binding obligation for all purposes in accordance with its terms.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.012. Charges.

(a) The governing body of a local government may impose and collect charges for the use or availability of a facility authorized by this chapter.

(b) A local government shall impose and collect pledged charges in an amount that will be at least sufficient, with any other pledged resources, to provide for the payment of:

(1) the principal of, interest on, and any other amounts required in connection with the bonds; and

(2) to the extent required by the bond authorization:

(A) expenses incurred in connection with the bonds; and

(B) operation, maintenance, and other expenses incurred in connection with the facility.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.013. Refunding Bonds.

(a) A local government may refund or otherwise refinance bonds issued under this chapter by issuing refunding bonds under any terms provided by a bond authorization.

(b) All appropriate provisions of this chapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this chapter for other bonds.

(c) The refunding bonds may be sold and delivered in amounts sufficient to pay the principal of and interest and any redemption premium on the bonds to be refunded, at maturity or on any redemption date.

(d) The refunding bonds may be issued to be exchanged for the bonds to be refunded by them. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds to be refunded as provided by the bond authorization. The exchange may be made in one delivery or in installment deliveries.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.014. Public Purpose.

The acquisition, construction, improvement, enlargement, equipment, operation, and maintenance of a facility authorized by this chapter is a public purpose and a proper function of a local government.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

Sec. 1432.015. Conflict or Inconsistency with Other Law.

When bonds are issued under this subchapter, to the extent of any conflict or inconsistency between this chapter and another law, this chapter controls.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 1, effective September 1, 1999.)

TITLE 10
GENERAL GOVERNMENT

SUBTITLE A
ADMINISTRATIVE PROCEDURE AND PRACTICE

CHAPTER 2001
ADMINISTRATIVE PROCEDURE

Subchapter A. General Provisions

Subchapter B. Rulemaking

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2001.001. Purpose.

It is the public policy of the state through this chapter to:

(1) provide minimum standards of uniform practice and procedure for state agencies;

(2) provide for public participation in the rulemaking process; and

(3) restate the law of judicial review of state agency action.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.002. Short Title.

This chapter may be cited as the Administrative Procedure Act.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.003. Definitions.

In this chapter:

(1) "Contested case" means a proceeding, including a ratemaking or licensing proceeding, in which the legal rights, duties, or privileges of a

party are to be determined by a state agency after an opportunity for adjudicative hearing.

(2) "License" includes the whole or a part of a state agency permit, certificate, approval, registration, or similar form of permission required by law.

(3) "Licensing" includes a state agency process relating to the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(4) "Party" means a person or state agency named or admitted as a party.

(5) "Person" means an individual, partnership, corporation, association, governmental subdivision, or public or private organization that is not a state agency.

(6) "Rule":

(A) means a state agency statement of general applicability that:

(i) implements, interprets, or prescribes law or policy; or

(ii) describes the procedure or practice requirements of a state agency;

(B) includes the amendment or repeal of a prior rule; and

(C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

(7) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules or determines contested cases. The term includes the State Office of Administrative Hearings for the purpose of determining contested cases. The term does not include:

(A) a state agency wholly financed by federal money;

(B) the legislature;

(C) the courts;

(D) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(E) an institution of higher education.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 6.007, effective September 1, 2005.)

Sec. 2001.004. Requirement to Adopt Rules of Practice and Index Rules, Orders, and Decisions.

In addition to other requirements under law, a state agency shall:

(1) adopt rules of practice stating the nature and requirements of all available formal and informal procedures;

(2) index, cross-index to statute, and make available for public inspection all rules and other written statements of policy or interpretations that are prepared, adopted, or used by the agency in discharging its functions; and

(3) index, cross-index to statute, and make available for public inspection all final orders, decisions, and opinions.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.005. Rule, Order, or Decision Not Effective Until Indexed.

(a) A state agency rule, order, or decision made or issued on or after January 1, 1976, is not valid or effective against a person or party, and may not be invoked by an agency, until the agency has indexed the rule, order, or decision and made it available for public inspection as required by this chapter.

(b) This section does not apply in favor of a person or party that has actual knowledge of the rule, order, or decision.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.006. Actions Preparatory to Implementation of Statute or Rule.

(a) In this section:

(1) "State agency" means a department, board, commission, committee, council, agency, office, or other entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code, and includes those entities excluded from the general definition of "state agency" under Section 2001.003(7).

(2) Legislation is considered to have "become law" if it has been passed by the legislature and:

(A) the governor has approved it;

(B) the governor has filed it with the secretary of state, having neither approved nor disapproved it;

(C) the time for gubernatorial action has expired under Section 14, Article IV, Texas Constitution, the governor having neither approved nor disapproved it; or

(D) the governor has disapproved it and the legislature has overridden the governor's disapproval in accordance with Section 14, Article IV, Texas Constitution.

(b) In preparation for the implementation of legislation that has become law but has not taken

effect, a state agency may adopt a rule or take other administrative action that the agency determines is necessary or appropriate and that the agency would have been authorized to take had the legislation been in effect at the time of the action.

(c) In preparation for the implementation of a rule that has been finally adopted by a state agency but has not taken effect, a state agency may take administrative action that the agency determines is necessary or appropriate and that the agency would have been authorized to take had the rule been in effect at the time of the action.

(d) A rule adopted under Subsection (b) may not take effect earlier than the legislation being implemented takes effect. Administrative action taken under Subsection (b) or (c) may not result in implementation or enforcement of the applicable legislation or rule before the legislation or rule takes effect.
(Enacted by Acts 1999, 76th Leg., ch. 558 (S.B. 382), § 1, effective September 1, 1999.)

Sec. 2001.007. Certain Explanatory Information Made Available Through Internet.

(a) A state agency shall make available through a generally accessible Internet site:

(1) the text of its rules; and

(2) any material, such as a letter, opinion, or compliance manual, that explains or interprets one or more of its rules and that the agency has issued for general distribution to persons affected by one or more of its rules.

(b) A state agency shall design the generally accessible Internet site so that a member of the public may send questions about the agency's rules to the agency electronically and receive responses to the questions from the agency electronically. If the agency's rules and the agency's explanatory and interpretive materials are made available at different Internet sites, both sites shall be designed in compliance with this subsection.

(c) [Repealed by Acts 2005, 79th Leg., ch. 750 (H.B. 2819), § 2(a), effective September 1, 2006.]

(d) A state agency may comply with this section through the actions of another agency, such as the secretary of state, on the agency's behalf.
(Enacted by Acts 1999, 76th Leg., ch. 1233 (S.B. 801), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(63), effective September 1, 2001 (renumbered from Sec. 2001.006); am. Acts 2005, 79th Leg., ch. 750 (H.B. 2819), § 2(a), effective September 1, 2006.)

SUBCHAPTER B RULEMAKING

Sec. 2001.021. Petition for Adoption of Rules.

(a) An interested person by petition to a state agency may request the adoption of a rule.

(b) A state agency by rule shall prescribe the form for a petition under this section and the procedure for its submission, consideration, and disposition.

(c) Not later than the 60th day after the date of submission of a petition under this section, a state agency shall:

(1) deny the petition in writing, stating its reasons for the denial; or

(2) initiate a rulemaking proceeding under this subchapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.022. Local Employment Impact Statements.

(a) A state agency shall determine whether a rule may affect a local economy before proposing the rule for adoption. If a state agency determines that a proposed rule may affect a local economy, the agency shall prepare a local employment impact statement for the proposed rule. The impact statement must describe in detail the probable effect of the rule on employment in each geographic area affected by the rule for each year of the first five years that the rule will be in effect and may include other factors at the agency's discretion.

(b) This section does not apply to the adoption of an emergency rule.

(c) Failure to comply with this section does not impair the legal effect of a rule adopted under this chapter.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 871 (H.B. 1872), § 1, effective September 1, 2001.)

Sec. 2001.0225. Regulatory Analysis of Major Environmental Rules.

(a) This section applies only to a major environmental rule adopted by a state agency, the result of which is to:

(1) exceed a standard set by federal law, unless the rule is specifically required by state law;

(2) exceed an express requirement of state law, unless the rule is specifically required by federal law;

(3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or

(4) adopt a rule solely under the general powers of the agency instead of under a specific state law.

(b) Before adopting a major environmental rule subject to this section, a state agency shall conduct a regulatory analysis that:

(1) identifies the problem the rule is intended to address;

(2) determines whether a new rule is necessary to address the problem; and

(3) considers the benefits and costs of the proposed rule in relationship to state agencies, local governments, the public, the regulated community, and the environment.

(c) When giving notice of a major environmental rule subject to this section, a state agency shall incorporate into the fiscal note required by Section 2001.024 a draft impact analysis describing the anticipated effects of the proposed rule. The draft impact analysis, at a minimum, must:

(1) identify the benefits that the agency anticipates from adoption and implementation of the rule, including reduced risks to human health, safety, or the environment;

(2) identify the costs that the agency anticipates state agencies, local governments, the public, and the regulated community will experience after implementation of the rule;

(3) describe the benefits and costs anticipated from implementation of the rule in as quantitative a manner as feasible, but including a qualitative description when a quantitative description is not feasible or adequately descriptive;

(4) describe reasonable alternative methods for achieving the purpose of the rule that were considered by the agency and provide the reasons for rejecting those alternatives in favor of the proposed rule;

(5) identify the data and methodology used in performing the analysis required by this section;

(6) provide an explanation of whether the proposed rule specifies a single method of compliance, and, if so, explain why the agency determines that a specified method of compliance is preferable to adopting a flexible regulatory approach, such as a performance-oriented, voluntary, or market-based approach;

(7) state that there is an opportunity for public comment on the draft impact analysis under Section 2001.029 and that all comments will be addressed in the publication of the final regulatory analysis; and

(8) provide information in such a manner that a reasonable person reading the analysis would be able to identify the impacts of the proposed rule.

(d) After considering public comments submitted under Section 2001.029 and determining that a proposed rule should be adopted, the agency shall prepare a final regulatory analysis that complies with Section 2001.033. Additionally, the agency shall find that, compared to the alternative proposals considered and rejected, the rule will result in the best combination of effectiveness in obtaining the desired results and of economic costs not materially greater than the costs of any alternative regulatory method considered.

(e) In preparing the draft impact analysis before publication for comment and the final regulatory analysis for the agency order adopting the rule, the state agency shall consider that the purpose of this requirement is to identify for the public and the regulated community the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision. In making its final regulatory decision, the agency shall assess:

(1) all information submitted to it, whether quantitative or qualitative, consistent with generally accepted scientific standards;

(2) actual data where possible; and

(3) assumptions that reflect actual impacts that the regulation is likely to impose.

(f) A person who submitted public comment in accordance with Section 2001.029 may challenge the validity of a major environmental rule that is not proposed and adopted in accordance with the procedural requirements of this section by filing an action for declaratory judgment under Section 2001.038 not later than the 30th day after the effective date of the rule. If a court determines that a major environmental rule was not proposed and adopted in accordance with the procedural requirements of this section, the rule is invalid.

(g) In this section:

(1) "Benefit" means a reasonably identifiable, significant, direct or indirect, favorable effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(2) "Cost" means a reasonably identifiable, significant, direct or indirect, adverse effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(3) "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from

environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

(h) The requirements of this section do not apply to state agency rules that are proposed or adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

(Enacted by Acts 1997, 75th Leg., ch. 1034 (S.B. 633), § 1, effective September 1, 1997.)

Sec. 2001.023. Notice of Proposed Rule.

(a) A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule.

(b) A state agency shall file notice of the proposed rule with the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.024. Content of Notice.

(a) The notice of a proposed rule must include:

(1) a brief explanation of the proposed rule;

(2) the text of the proposed rule, except any portion omitted under Section 2002.014, prepared in a manner to indicate any words to be added or deleted from the current text;

(3) a statement of the statutory or other authority under which the rule is proposed to be adopted, including:

(A) a concise explanation of the particular statutory or other provisions under which the rule is proposed;

(B) the section or article of the code affected; and

(C) a certification that the proposed rule has been reviewed by legal counsel and found to be within the state agency's authority to adopt;

(4) a fiscal note showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A) the additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule;

(B) the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

(C) the estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule; and

(D) if applicable, that enforcing or administering the rule does not have foreseeable implications relating to cost or revenues of the state or local governments;

(5) a note about public benefits and costs showing the name and title of the officer or employee responsible for preparing or approving the note and stating for each year of the first five years that the rule will be in effect:

(A) the public benefits expected as a result of adoption of the proposed rule; and

(B) the probable economic cost to persons required to comply with the rule;

(6) the local employment impact statement prepared under Section 2001.022, if required;

(7) a request for comments on the proposed rule from any interested person; and

(8) any other statement required by law.

(b) In the notice of a proposed rule that amends any part of an existing rule:

(1) the text of the entire part of the rule being amended must be set out;

(2) the language to be deleted must be bracketed and stricken through; and

(3) the language to be added must be underlined.

(c) In the notice of a proposed rule that is new or that adds a complete section to an existing rule, the new rule or section must be set out and underlined.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1067 (S.B. 1715), § 1, effective September 1, 1997.)

Sec. 2001.025. Effective Date of Notice.

Notice of a proposed rule becomes effective as notice when published in the Texas Register, except as provided by Section 2001.028.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.026. Notice to Persons Requesting Advance Notice of Proposed Rules.

A state agency shall mail notice of a proposed rule to each person who has made a timely written request of the agency for advance notice of its rulemaking proceedings. Failure to mail the notice does not invalidate an action taken or rule adopted.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.027. Withdrawal of Proposed Rule.

A proposed rule is withdrawn six months after the date of publication of notice of the proposed rule in

the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.028. Notice of Proposed Law Enforcement Rules.

Notice of the adoption of a proposed rule by the Commission on Jail Standards or the Texas Commission on Law Enforcement that affects a law enforcement agency of the state or of a political subdivision of the state is not effective until the notice is:

(1) published as required by Section 2001.023; and

(2) mailed to each law enforcement agency that may be affected by the proposed rule.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 93 (S.B. 686), § 2.35, effective May 18, 2013.)

Sec. 2001.029. Public Comment.

(a) Before adopting a rule, a state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing.

(b) A state agency shall grant an opportunity for a public hearing before it adopts a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental subdivision or agency; or

(3) an association having at least 25 members.

(c) A state agency shall consider fully all written and oral submissions about a proposed rule.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.030. Statement of Reasons for or Against Adoption.

On adoption of a rule, a state agency, if requested to do so by an interested person either before adoption or not later than the 30th day after the date of adoption, shall issue a concise statement of the principal reasons for and against its adoption. The agency shall include in the statement its reasons for overruling the considerations urged against adoption.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.031. Informal Conferences and Advisory Committees.

(a) A state agency may use an informal conference or consultation to obtain the opinions and advice of interested persons about contemplated rulemaking.

(b) A state agency may appoint committees of experts or interested persons or representatives of the public to advise the agency about contemplated rulemaking.

(c) The power of a committee appointed under this section is advisory only.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.032. Legislative Review.

(a) Each house of the legislature by rule shall establish a process under which the presiding officer of each house refers each proposed state agency rule to the appropriate standing committee for review before the rule is adopted.

(b) On receiving a written request from the lieutenant governor, a member of the legislature, or a legislative agency, the secretary of state shall provide the requestor with electronic notification of rulemaking filings by a state agency under Section 2001.023.

(c) On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2011, 82nd Leg., ch. 906 (S.B. 791), § 2, effective September 1, 2011.)

Sec. 2001.033. State Agency Order Adopting Rule.

(a) A state agency order finally adopting a rule must include:

(1) a reasoned justification for the rule as adopted consisting solely of:

(A) a summary of comments received from parties interested in the rule that shows the names of interested groups or associations offering comment on the rule and whether they were for or against its adoption;

(B) a summary of the factual basis for the rule as adopted which demonstrates a rational connection between the factual basis for the rule and the rule as adopted; and

(C) the reasons why the agency disagrees with party submissions and proposals;

(2) a concise restatement of the particular statutory provisions under which the rule is adopted and of how the agency interprets the provisions as authorizing or requiring the rule; and

(3) a certification that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

(b) Nothing in this section shall be construed to require additional analysis of alternatives not adopted by an agency beyond that required by Subdivision (1)(C) or to require the reasoned justification to be stated separately from the statements required in Subdivision (1).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 558 (S.B. 382), § 2, effective September 1, 1999.)

Sec. 2001.034. Emergency Rulemaking.

(a) A state agency may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and a hearing that it finds practicable, if the agency:

(1) finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice; and

(2) states in writing the reasons for its finding under Subdivision (1).

(b) A state agency shall set forth in an emergency rule's preamble the finding required by Subsection (a).

(c) A rule adopted under this section may be effective for not longer than 120 days and may be renewed once for not longer than 60 days. An identical rule may be adopted under Sections 2001.023 and 2001.029.

(d) A state agency shall file an emergency rule adopted under this section and the agency's written reasons for the adoption in the office of the secretary of state for publication in the Texas Register in the manner prescribed by Chapter 2002.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.035. Substantial Compliance Requirement; Time Limit on Procedural Challenge.

(a) A rule is voidable unless a state agency adopts it in substantial compliance with Sections 2001.0225 through 2001.034.

(b) A person must initiate a proceeding to contest a rule on the ground of noncompliance with the procedural requirements of Sections 2001.0225 through 2001.034 not later than the second anniversary of the effective date of the rule.

(c) A state agency substantially complies with the requirements of Section 2001.033 if the agency's reasoned justification demonstrates in a relatively clear and logical fashion that the rule is a reasonable means to a legitimate objective.

(d) A mere technical defect that does not result in prejudice to a person's rights or privileges is not grounds for invalidation of a rule.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 558 (S.B. 382), § 3, effective September 1, 1999.)

Sec. 2001.036. Effective Date of Rules; Effect of Filing with Secretary of State.

(a) A rule takes effect 20 days after the date on which it is filed in the office of the secretary of state, except that:

(1) if a later date is required by statute or specified in the rule, the later date is the effective date;

(2) if a state agency finds that an expedited effective date is necessary because of imminent peril to the public health, safety, or welfare, and subject to applicable constitutional or statutory provisions, a rule is effective immediately on filing with the secretary of state, or on a stated date less than 20 days after the filing date; and

(3) if a federal statute or regulation requires that a state agency implement a rule by a certain date, the rule is effective on the prescribed date.

(b) A state agency shall file with its rule the finding described by Subsection (a)(2), if applicable, and a brief statement of the reasons for the finding. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them.

(c) A rule adopted as provided by Subsection (a)(3) shall be filed in the office of the secretary of state and published in the Texas Register.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.037. Official Text of Rule.

If a conflict exists, the official text of a rule is the text on file with the secretary of state and not the text published in the Texas Register or on file with the issuing state agency.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.038. Declaratory Judgment.

(a) The validity or applicability of a rule, including an emergency rule adopted under Section 2001.034, may be determined in an action for declaratory judgment if it is alleged that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the plaintiff.

(b) The action may be brought only in a Travis County district court.

(c) The state agency must be made a party to the action.

(d) A court may render a declaratory judgment without regard to whether the plaintiff requested the state agency to rule on the validity or applicability of the rule in question.

(e) An action brought under this section may not be used to delay or stay a hearing in which a suspension, revocation, or cancellation of a license by a state agency is at issue before the agency after notice of the hearing has been given.

(f) A Travis County district court in which an action is brought under this section, on its own motion or the motion of any party, may request transfer of the action to the Court of Appeals for the Third Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the validity or applicability of the rule in question and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the validity or applicability of the rule in question is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of the court of appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 894 (H.B. 2105), § 1, effective September 1, 1999.)

Sec. 2001.039. Agency Review of Existing Rules.

(a) A state agency shall review and consider for readoption each of its rules in accordance with this section.

(b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.

(c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

(d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.

(e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

(Enacted by Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 4, effective September 1, 1999.)

Sec. 2001.040. Scope and Effect of Order Invalidating Agency Rule.

If a court finds that an agency has not substantially complied with one or more procedural requirements of Sections 2001.0225 through 2001.034, the court may remand the rule, or a portion of the rule, to the agency and, if it does so remand, shall provide a reasonable time for the agency to either revise or readopt the rule through established procedure. During the remand period, the rule shall remain effective unless the court finds good cause to invalidate the rule or a portion of the rule, effective as of the date of the court's order.

(Enacted by Acts 1999, 76th Leg., ch. 558 (S.B. 382), § 4, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(64), effective September 1, 2001 (renumbered from Sec. 2001.039).)

Sec. 2001.041. Compliance with Law on Decentralization.

A state agency rule, order, or guide relating to decentralization of agency services or programs must include a statement of the manner in which the agency complied with Section 391.0091, Local Government Code.

(Enacted by Acts 2003, 78th Leg., ch. 718 (H.B. 2947), § 2, effective September 1, 2003.)

SUBCHAPTER C
CONTESTED CASES: GENERAL RIGHTS AND PROCEDURES

Sec. 2001.051. Opportunity for Hearing and Participation; Notice of Hearing.

In a contested case, each party is entitled to an opportunity:

(1) for hearing after reasonable notice of not less than 10 days; and

(2) to respond and to present evidence and argument on each issue involved in the case.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.052. Contents of Notice.

(a) Notice of a hearing in a contested case must include:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) a short, plain statement of the matters asserted.

(b) If a state agency or other party is unable to state matters in detail at the time notice under this section is served, an initial notice may be limited to a statement of the issues involved. On timely written application, a more definite and detailed statement shall be furnished not less than three days before the date set for the hearing.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.053. Right to Counsel.

(a) Each party to a contested case is entitled to the assistance of counsel before a state agency.

(b) A party may expressly waive the right to assistance of counsel.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.054. Licenses.

(a) The provisions of this chapter concerning contested cases apply to the grant, denial, or renewal of a license that is required to be preceded by notice and opportunity for hearing.

(b) If a license holder makes timely and sufficient application for the renewal of a license or for a new license for an activity of a continuing nature, the existing license does not expire until the application has been finally determined by the state agency. If the application is denied or the terms of the new license are limited, the existing license does not expire until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) A revocation, suspension, annulment, or withdrawal of a license is not effective unless, before institution of state agency proceedings:

(1) the agency gives notice by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action; and

(2) the license holder is given an opportunity to show compliance with all requirements of law for the retention of the license.

(d) A license described in Subsection (a) remains valid unless it expires without timely application for renewal, is amended, revoked, suspended, annulled, or withdrawn, or the denial of a renewal application becomes final. The term or duration of a license described in Subsection (a) is tolled during the period the license is subjected to judicial review. However, the term or duration of a license is not tolled if, during judicial review, the licensee engages in the activity for which the license was issued.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 589 (S.B. 1443), § 1, effective September 1, 1995.)

Sec. 2001.055. Interpreters for Deaf or Hearing Impaired Parties and Witnesses.

(a) In a contested case, a state agency shall provide an interpreter whose qualifications are approved by the Texas Commission for the Deaf and Hard of Hearing to interpret the proceedings for a party or subpoenaed witness who is deaf or hearing impaired.

(b) In this section, "deaf or hearing impaired" means having a hearing impairment, whether or not accompanied by a speech impairment, that inhibits comprehension of the proceedings or communication with others.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 835 (H.B. 2859), § 18, effective September 1, 1995.)

Sec. 2001.056. Informal Disposition of Contested Case.

Unless precluded by law, an informal disposition may be made of a contested case by:

(1) stipulation;

(2) agreed settlement;

(3) consent order; or

(4) default.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.057. Continuances.

(a) A state agency may continue a hearing in a contested case from time to time and from place to place.

(b) The notice of the hearing must indicate the times and places at which the hearing may be continued.

(c) If a hearing is not concluded on the day it begins, a state agency shall, to the extent possible,

proceed with the hearing on each subsequent working day until the hearing is concluded.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.058. Hearing Conducted by State Office of Administrative Hearings.

(a) This section applies only to an administrative law judge employed by the State Office of Administrative Hearings.

(b) An administrative law judge who conducts a contested case hearing shall consider applicable agency rules or policies in conducting the hearing, but the state agency deciding the case may not supervise the administrative law judge.

(c) A state agency shall provide the administrative law judge with a written statement of applicable rules or policies.

(d) A state agency may not attempt to influence the finding of facts or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.

(e) A state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under Subsection (c), or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

The agency shall state in writing the specific reason and legal basis for a change made under this subsection.

(f) A state agency by rule may provide that, in a contested case before the agency that concerns licensing in relation to an occupational license and that is not disposed of by stipulation, agreed settlement, or consent order, the administrative law judge shall render the final decision in the contested case. If a state agency adopts such a rule, the following provisions apply to contested cases covered by the rule:

(1) the administrative law judge shall render the decision that may become final under Section 2001.144 not later than the 60th day after the latter of the date on which the hearing is finally closed or the date by which the judge has ordered all briefs, reply briefs, and other posthearing documents to be filed, and the 60-day period may be extended only with the consent of all parties, including the occupational licensing agency;

(2) the administrative law judge shall include in the findings of fact and conclusions of law a determination whether the license at issue is primarily a license to engage in an occupation;

(3) the State Office of Administrative Hearings is the state agency with which a motion for rehearing or a reply to a motion for rehearing is filed under Section 2001.146 and is the state agency that acts on the motion or extends a time period under Section 2001.146;

(4) the State Office of Administrative Hearings is the state agency responsible for sending a copy of the decision that may become final under Section 2001.144 or an order ruling on a motion for rehearing to the parties, including the occupational licensing agency, in accordance with Section 2001.142; and

(5) the occupational licensing agency and any other party to the contested case is entitled to obtain judicial review of the final decision in accordance with this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1167 (S.B. 332), § 1, effective September 1, 1997.)

Sec. 2001.059. Transcript.

(a) On the written request of a party to a contested case, proceedings, or any part of the proceedings, shall be transcribed.

(b) A state agency may pay the cost of a transcript or may assess the cost to one or more parties.

(c) This chapter does not limit a state agency to a stenographic record of proceedings.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.060. Record.

The record in a contested case includes:

(1) each pleading, motion, and intermediate ruling;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on them;

(5) proposed findings and exceptions;

(6) each decision, opinion, or report by the officer presiding at the hearing; and

(7) all staff memoranda or data submitted to or considered by the hearing officer or members of the agency who are involved in making the decision.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.061. Ex Parte Consultations.

(a) Unless required for the disposition of an ex parte matter authorized by law, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not directly or indirectly communicate in connection with an issue of fact or law with a state agency, person, party, or a representative of those entities, except on notice and opportunity for each party to participate.

(b) A state agency member may communicate ex parte with another member of the agency unless prohibited by other law.

(c) Under Section 2001.090, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with an agency employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.062. Examination of Record by State Agency; Proposal for Decision.

(a) In a contested case, if a majority of the state agency officials who are to render a final decision have not heard the case or read the record, the decision, if adverse to a party other than the agency itself, may not be made until:

(1) a proposal for decision is served on each party; and

(2) an opportunity is given to each adversely affected party to file exceptions and present briefs to the officials who are to render the decision.

(b) If a party files exceptions or presents briefs, an opportunity shall be given to each other party to file replies to the exceptions or briefs.

(c) A proposal for decision must contain a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision. The statement must be prepared by the individual who conducted the hearing or by one who has read the record.

(d) A proposal for decision may be amended in response to exceptions, replies, or briefs submitted by the parties without again being served on the parties.

(e) The parties by written stipulation may waive compliance with this section.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER D
CONTESTED CASES: EVIDENCE, WITNESSES, AND DISCOVERY

Sec. 2001.081. Rules of Evidence.

The rules of evidence as applied in a nonjury civil case in a district court of this state shall apply to a contested case except that evidence inadmissible under those rules may be admitted if the evidence is:

(1) necessary to ascertain facts not reasonably susceptible of proof under those rules;

(2) not precluded by statute; and

(3) of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.082. Exclusion of Evidence.

In a contested case, evidence that is irrelevant, immaterial, or unduly repetitious shall be excluded.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.083. Privilege.

In a contested case, a state agency shall give effect to the rules of privilege recognized by law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.084. Objections to Evidence.

An objection to an evidentiary offer in a contested case may be made and shall be noted in the record.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.085. Written Evidence.

Subject to the requirements of Sections 2001.081 through 2001.084, any part of the evidence in a contested case may be received in writing if:

(1) a hearing will be expedited; and

(2) the interests of the parties will not be substantially prejudiced.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.086. Documentary Evidence.

A copy or excerpt of documentary evidence may be received in a contested case if an original document is not readily available. On request, a party shall be given an opportunity to compare the copy or excerpt with the original document.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.087. Cross-Examination.

In a contested case, a party may conduct cross-examination required for a full and true disclosure of the facts.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.088. Witnesses.

A state agency may swear witnesses and take their testimony under oath in connection with a contested case held under this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.089. Issuance of Subpoena.

On its own motion or on the written request of a party to a contested case pending before it, a state agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purposes of a proceeding if:

(1) good cause is shown; and

(2) an amount is deposited that will reasonably ensure payment of the amounts estimated to accrue under Section 2001.103.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.090. Official Notice; State Agency Evaluation of Evidence.

(a) In connection with a hearing held under this chapter, official notice may be taken of:

(1) all facts that are judicially cognizable; and

(2) generally recognized facts within the area of the state agency's specialized knowledge.

(b) Each party shall be notified either before or during the hearing, or by reference in a preliminary report or otherwise, of the material officially noticed, including staff memoranda or information.

(c) Each party is entitled to be given an opportunity to contest material that is officially noticed.

(d) The special skills or knowledge of the state agency and its staff may be used in evaluating the evidence.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.091. Discovery from Parties: Orders for Production or Inspection.

(a) On the motion of a party, on notice to each other party, and subject to limitations of the kind provided for discovery under the Texas Rules of Civil Procedure, a state agency in which a contested case is pending may order a party:

(1) to produce and to permit the party making the motion or a person on behalf of that party to inspect and to copy or photograph a designated document, paper, book, account, letter, photograph, or tangible thing in the party's possession, custody, or control that:

(A) is not privileged; and

(B) constitutes or contains, or is reasonably calculated to lead to the discovery of, evidence that is material to a matter involved in the contested case; and

(2) to permit entry to designated land or other property in the party's possession or control to inspect, measure, survey, or photograph the property or a designated object or operation on the property that may be material to a matter involved in the contested case.

(b) An order under this section:

(1) must specify the time, place, and manner of making the inspection, measurement, or survey or of making copies or photographs; and

(2) may prescribe other terms and conditions that are just.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.092. Discovery from Parties: Identity of Witness or Potential Party; Expert Reports.

(a) The identity and location of a potential party or witness in a contested case may be obtained from a communication or other paper in a party's possession, custody, or control.

(b) A party may be required to produce and permit the inspection and copying of a report, including factual observations and opinions, of an expert who will be called as a witness.

(c) This section does not extend to other communications:

(1) made after the occurrence or transaction on which the contested case is based;

(2) made in connection with the prosecution, investigation, or defense of the contested case or the circumstances from which the case arose; and

(3) that are:

(A) written statements of witnesses;

(B) in writing and between agents, representatives, or employees of a party; or

(C) between a party and the party's agent, representative, or employee.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.093. Discovery from Parties: Copy of Previous Statement.

(a) On request, a person, including a person who is not a party, is entitled to obtain a copy of a statement in a party's possession, custody, or control that the person has previously made about the contested case or its subject matter.

(b) A person whose request under Subsection (a) is refused may move for a state agency order under Section 2001.091.

(c) In this section, a statement is considered to be previously made if it is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription of the recording, which is a substantially verbatim recital of an oral statement by the person making it and that was contemporaneously recorded.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.094. Issuance of Commission Requiring Deposition.

(a) On its own motion or on the written request of a party to a contested case pending before it, and on deposit of an amount that will reasonably ensure payment of the amount estimated to accrue under Section 2001.103, a state agency shall issue a commission, addressed to the officers authorized by statute to take a deposition, requiring that the deposition of a witness be taken.

(b) The commission shall authorize the issuance of any subpoena necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects that may be necessary and proper for the purpose of the proceeding.

(c) The commission shall require an officer to whom it is addressed to:

(1) examine the witness before the officer on the date and at the place named in the commission; and

(2) take answers under oath to questions asked the witness by a party to the proceeding, the state agency, or an attorney for a party or the agency.

(d) The commission shall require the witness to remain in attendance from day to day until the deposition is begun and completed.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.095. Deposition of State Agency Board Member.

The deposition of a member of a state agency board may not be taken after a date has been set for hearing in a contested case.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.096. Place of Deposition.

A deposition in a contested case shall be taken in the county where the witness:

(1) resides;

(2) is employed; or

(3) regularly transacts business in person.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.097. Objections to Deposition Testimony.

(a) The officer taking an oral deposition in a contested case may not:

(1) sustain an objection to the testimony taken; or

(2) exclude testimony.

(b) An objection to deposition testimony is reserved for the action of the state agency before which the matter is pending.

(c) The administrator or other officer conducting the contested case hearing may consider objections other than those made at the taking of the testimony.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.098. Preparation of Deposition.

(a) A deposition witness in a contested case shall be carefully examined.

(b) The testimony shall be reduced to writing or typewriting by the officer taking the deposition, a person under the officer's personal supervision, or the deposition witness in the officer's presence.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.099. Submission of Deposition to Witness; Signature.

(a) A deposition in a contested case shall be submitted to the witness for examination after the testimony is fully transcribed and shall be read to or by the witness.

(b) The witness and the parties may waive in writing the examination and reading of a deposition under Subsection (a).

(c) If the witness is a party to the contested case pending before the agency with an attorney of record, the deposition officer shall notify the attorney of record in writing by registered or certified mail that the deposition is ready for examination and reading at the office of the deposition officer and that

if the witness does not appear and examine, read, and sign the deposition before the 21st day after the date on which the notice is mailed, the deposition shall be returned as provided by this subchapter for unsigned depositions.

(d) A witness must sign a deposition at least three days before the date of the hearing or the deposition shall be returned as an unsigned deposition as provided by this subchapter.

(e) The officer taking a deposition shall enter on the deposition:

(1) a change in form or substance that the witness desires to make; and

(2) a statement of the reasons given by the witness for making the change.

(f) After the deposition officer has entered any change and a statement of reasons for the change on the deposition under Subsection (e), the witness shall sign the deposition unless:

(1) the parties present at the taking of the deposition by stipulation waive the signing;

(2) the witness is ill;

(3) the witness cannot be found; or

(4) the witness refuses to sign.

(g) If a deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the witness's waiver, illness, absence, or refusal to sign and the reason given, if any, for failure to sign. The deposition may then be used as though signed by the witness.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.100. Return of Deposition to State Agency.

(a) A deposition may be returned to the state agency before which the contested case is pending by mail or by a party interested in taking the deposition or another person.

(b) For a deposition returned by mail, the state agency shall:

(1) endorse on the deposition the fact that it was received from the post office; and

(2) have it signed by the agency employee receiving the deposition.

(c) For a deposition returned by means other than mail, the person delivering it to the state agency shall execute an affidavit before the agency stating that:

(1) the person received it from the hands of the officer before whom it was taken;

(2) it has not been out of the person's possession since the person received it; and

(3) it has not been altered.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.101. Opening of Deposition by State Agency Employee.

(a) At the request of a party or the party's counsel, a deposition in a contested case that is filed with a state agency may be opened by an employee of the agency.

(b) A state agency employee who opens a deposition shall:

(1) endorse on the deposition the day and at whose request it was opened; and

(2) sign the deposition.

(c) The deposition shall remain on file with the state agency for the inspection of any party.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.102. Use of Deposition.

A party is entitled to use a deposition taken under this subchapter in the contested case pending before the state agency without regard to whether a cross-interrogatory has been propounded.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.103. Expenses of Witness or Deponent.

(a) A witness or deponent in a contested case who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of a proceeding under this chapter is entitled to receive:

(1) 10 cents for each mile, or a greater amount prescribed by state agency rule, for going to and returning from the place of the hearing or deposition if the place is more than 25 miles from the person's place of residence and the person uses the person's personally owned or leased motor vehicle for the travel;

(2) reimbursement of the transportation expenses of the witness or deponent for going to and returning from the place where the hearing is held or the deposition is taken, if the place is more than 25 miles from the person's place of residence and the person does not use the person's personally owned or leased motor vehicle for the travel;

(3) reimbursement of the meal and lodging expenses of the witness or deponent while going to and returning from the place where the hearing is held or deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(4) $10, or a greater amount prescribed by state agency rule, for each day or part of a day that the person is necessarily present.

(b) Amounts required to be reimbursed or paid under this section shall be reimbursed or paid by the party or agency at whose request the witness appears or the deposition is taken. An agency required to make a payment or reimbursement shall present to the comptroller vouchers:

(1) sworn by the witness or deponent; and

(2) approved by the agency in accordance with Chapter 2103.

(c) An agency may directly pay a commercial transportation company for the transportation expenses or a commercial lodging establishment for the lodging expenses of a witness or deponent if this section otherwise requires the agency to reimburse the witness or deponent for those expenses.

(d) An agency may not pay a commercial transportation company or commercial lodging establishment or reimburse a witness or deponent for transportation, meal, or lodging expenses under this section at a rate that exceeds the maximum rates provided by law for state employees. An agency may not adopt rules that provide for payment or reimbursement rates that exceed those maximum rates.

(e) In this section:

(1) "Commercial lodging establishment" means a motel, hotel, inn, apartment, or similar entity that offers lodging to the public in exchange for compensation.

(2) "Commercial transportation company" means an entity that offers transportation of people or goods to the public in exchange for compensation.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.20(a), effective September 1, 1995.)

SUBCHAPTER E CONTESTED CASES: TESTIMONY OF CHILD

Sec. 2001.121. Statement or Testimony by Certain Child Abuse Victims.

(a) This section applies:

(1) to a contested case and judicial review of a final decision under this chapter, whether by trial de novo or under the substantial evidence rule, in which an issue is the abuse of a child younger than 12 years of age; and

(2) only to the statement or testimony of a child younger than 12 years of age who is alleged to have been abused.

(b) The recording of an oral statement recorded before the proceeding is admissible into evidence if:

(1) an attorney for a party to the proceeding was not present when the statement was made;

(2) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) the recording equipment was capable of making an accurate recording;

(4) the operator was competent;

(5) the recording is accurate and has not been altered;

(6) the statement was not made in response to questioning calculated to lead the child to make a particular statement;

(7) each voice on the recording is identified;

(8) the individual conducting the interview of the child in the recording is present at the proceeding and available to testify or to be cross-examined by either party; and

(9) each party to the proceeding is given an opportunity to view the recording before it is offered into evidence.

(c) On the motion of a party to the proceeding, the individual conducting the hearing may order that the testimony of the child be taken in a room other than the hearing room and be televised by closed circuit equipment in the hearing room to be viewed by the finder of fact and the parties to the proceeding. Only an attorney for each party, an attorney ad litem for the child or other individual whose presence would contribute to the welfare and well-being of the child, and individuals necessary to operate the equipment may be present in the room with the child during the child's testimony. Only the attorneys for the parties may question the child. The individuals operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during the child's testimony but does not permit the child to see or hear them.

(d) On the motion of a party to the proceeding, the individual conducting the hearing may order that the testimony of the child be taken outside the hearing room and be recorded for showing in the hearing room before the individual conducting the hearing, the finder of fact, and the parties to the proceeding. Only those individuals permitted to be present at the taking of testimony under Subsection (c) may be present during the taking of the child's testimony. Only the attorneys for the parties may question the child, and the individuals operating the equipment shall be confined from the child's sight and hearing as provided by Subsection (c). The individual conducting the hearing shall ensure that:

(1) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(2) the recording equipment was capable of making an accurate recording;

(3) the operator was competent;

(4) the recording is accurate and is not altered;

(5) each voice on the recording is identified; and

(6) each party to the proceeding is given an opportunity to view the recording before it is shown in the hearing room.

(e) A child whose testimony is taken as provided by this section may not be compelled to testify in the presence of the individual conducting the hearing during the proceeding.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.122. Hearsay Statement of Child Abuse Victim.

(a) This section applies:

(1) to a proceeding held under this chapter or a judicial review of a final decision under this chapter, whether by trial de novo or under the substantial evidence rule, in which an issue is the abuse of a child 12 years of age or younger; and

(2) only to a statement that describes an alleged incident of child abuse that:

(A) was made by the child who is the alleged victim of the incident; and

(B) was made to the first individual 18 years of age or older, other than the individual accused of abuse, to whom the child made a statement about the incident.

(b) A statement that meets the requirements of Subsection (a)(2) is not inadmissible as hearsay if:

(1) on or before the seventh day before the date on which the proceeding or hearing begins, the party intending to offer the statement:

(A) notifies each other party of the party's intention to do so;

(B) provides each other party with the name of the witness through whom it intends to offer the statement; and

(C) provides each other party with a written summary of the statement;

(2) the presiding official conducting the proceeding finds that the statement is reliable based on the time, content, and circumstances of the statement; and

(3) the child who is the alleged victim testifies or is available to testify at the hearing in court, at the proceeding, or in any other manner provided by law.

(c) The finding required by Subsection (b)(2) shall be made in a hearing conducted outside the presence of the jury, if the hearing is before a jury.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER F
CONTESTED CASES: FINAL DECISIONS AND ORDERS; MOTIONS FOR REHEARING

Sec. 2001.141. Form of Decision; Findings of Fact and Conclusions of Law.

(a) A decision or order that may become final under Section 2001.144 that is adverse to a party in a contested case must be in writing or stated in the record.

(b) A decision that may become final under Section 2001.144 must include findings of fact and conclusions of law, separately stated.

(c) Findings of fact may be based only on the evidence and on matters that are officially noticed.

(d) Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(e) If a party submits under a state agency rule proposed findings of fact, the decision shall include a ruling on each proposed finding.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.142. Notification of Decisions and Orders.

(a) A party in a contested case shall be notified either personally or by first class mail of any decision or order.

(b) On issuance in a contested case of a decision that may become final under Section 2001.144 or an order ruling on a motion for rehearing, a state agency shall send a copy of the decision or order by first class mail to the attorneys of record and shall keep an appropriate record of the mailing. If a party is not represented by an attorney of record, the state agency shall send a copy of the decision or order by first class mail to the party and shall keep an appropriate record of the mailing.

(c) A party or attorney of record notified by mail under Subsection (b) is presumed to have been notified on the third day after the date on which the notice is mailed.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 18 (S.B. 211), § 1, effective September 1, 1999.)

Sec. 2001.143. Time of Rendering Decision.

(a) A decision or order that may become final under Section 2001.144 in a contested case must be

rendered not later than the 60th day after the date on which the hearing is finally closed.

(b) In a contested case heard by other than a majority of the officials of a state agency, the agency may extend the period in which the decision or order may be issued.

(c) Any extension shall be announced at the conclusion of the hearing.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.144. Decisions; When Final.

(a) A decision in a contested case is final:

(1) if a motion for rehearing is not filed on time, on the expiration of the period for filing a motion for rehearing;

(2) if a motion for rehearing is filed on time, on the date:

(A) the order overruling the motion for rehearing is rendered; or

(B) the motion is overruled by operation of law;

(3) if a state agency finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision is rendered; or

(4) on the date specified in the order for a case in which all parties agree to the specified date in writing or on the record, if the specified date is not before the date the order is signed or later than the 20th day after the date the order was rendered.

(b) If a decision or order is final under Subsection (a)(3), a state agency must recite in the decision or order the finding made under Subsection (a)(3) and the fact that the decision or order is final and effective on the date rendered.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 611 (S.B. 637), § 1, effective September 1, 1997.)

Sec. 2001.145. Motions for Rehearing: Prerequisites to Appeal.

(a) A timely motion for rehearing is a prerequisite to an appeal in a contested case except that a motion for rehearing of a decision or order that is final under Section 2001.144(a)(3) or (4) is not a prerequisite for appeal.

(b) A decision that is final under Section 2001.144(a)(2), (3), or (4) is appealable.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 611 (S.B. 637), § 2, effective September 1, 1997.)

Sec. 2001.146. Motions for Rehearing: Procedures.

(a) A motion for rehearing in a contested case must be filed by a party not later than the 20th day after the date on which the party or the party's attorney of record is notified as required by Section 2001.142 of a decision or order that may become final under Section 2001.144.

(b) A reply to a motion for rehearing must be filed with the state agency not later than the 30th day after the date on which the party or the party's attorney of record is notified as required by Section 2001.142 of the decision or order that may become final under Section 2001.144.

(c) A state agency shall act on a motion for rehearing not later than the 45th day after the date on which the party or the party's attorney of record is notified as required by Section 2001.142 of the decision or order that may become final under Section 2001.144 or the motion for rehearing is overruled by operation of law.

(d) If a state agency board includes a member who does not receive a salary for work as a board member and who resides outside Travis County, the board may rule on a motion for rehearing at a meeting or by:

(1) mail;

(2) telephone;

(3) telegraph; or

(4) another suitable means of communication.

(e) A state agency may by written order extend the time for filing a motion or reply or taking agency action under this section, except that an extension may not extend the period for agency action beyond the 90th day after the date on which the party or the party's attorney of record is notified as required by Section 2001.142 of the decision or order that may become final under Section 2001.144.

(f) In the event of an extension, a motion for rehearing is overruled by operation of law on the date fixed by the order or, in the absence of a fixed date, 90 days after the date on which the party or the party's attorney of record is notified as required by Section 2001.142 of the decision or order that may become final under Section 2001.144.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.147. Agreement to Modify Time Limits.

The parties to a contested case, with state agency approval, may agree to modify the times prescribed by Sections 2001.143 and 2001.146.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER G
CONTESTED CASES: JUDICIAL REVIEW

Sec. 2001.171. Judicial Review.

A person who has exhausted all administrative remedies available within a state agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.172. Scope of Judicial Review.

The scope of judicial review of a state agency decision in a contested case is as provided by the law under which review is sought.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.173. Trial De Novo Review.

(a) If the manner of review authorized by law for the decision in a contested case that is the subject of complaint is by trial de novo, the reviewing court shall try each issue of fact and law in the manner that applies to other civil suits in this state as though there had not been an intervening agency action or decision but may not admit in evidence the fact of prior state agency action or the nature of that action except to the limited extent necessary to show compliance with statutory provisions that vest jurisdiction in the court.

(b) On demand, a party to a trial de novo review may have a jury determination of each issue of fact on which a jury determination could be obtained in other civil suits in this state.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.174. Review Under Substantial Evidence Rule or Undefined Scope of Review.

If the law authorizes review of a decision in a contested case under the substantial evidence rule or if the law does not define the scope of judicial review, a court may not substitute its judgment for the judgment of the state agency on the weight of the evidence on questions committed to agency discretion but:

(1) may affirm the agency decision in whole or in part; and

(2) shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(A) in violation of a constitutional or statutory provision;

(B) in excess of the agency's statutory authority;

(C) made through unlawful procedure;

(D) affected by other error of law;

(E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or

(F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.175. Procedures for Review Under Substantial Evidence Rule or Undefined Scope of Review.

(a) The procedures of this section apply if the manner of review authorized by law for the decision in a contested case that is the subject of complaint is other than by trial de novo.

(b) After service of the petition on a state agency and within the time permitted for filing an answer or within additional time allowed by the court, the agency shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party is subject to a rule adopted under Section 2001.177 requiring payment of all costs of record preparation. The court may require or permit later corrections or additions to the record.

(c) A party may apply to the court to present additional evidence. If the court is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the state agency, the court may order that the additional evidence be taken before the agency on conditions determined by the court. The agency may change its findings and decision by reason of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the reviewing court.

(d) The party seeking judicial review shall offer, and the reviewing court shall admit, the state agency record into evidence as an exhibit.

(e) A court shall conduct the review sitting without a jury and is confined to the agency record, except that the court may receive evidence of procedural irregularities alleged to have occurred before the agency that are not reflected in the record.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.176. Petition Initiating Judicial Review.

(a) A person initiates judicial review in a contested case by filing a petition not later than the 30th day after the date on which the decision that is the subject of complaint is final and appealable.

(b) Unless otherwise provided by statute:

(1) the petition must be filed in a Travis County district court;

(2) a copy of the petition must be served on the state agency and each party of record in the proceedings before the agency; and

(3) the filing of the petition vacates a state agency decision for which trial de novo is the manner of review authorized by law but does not affect the enforcement of an agency decision for which another manner of review is authorized.

(c) A Travis County district court in which an action is brought under this section, on its own motion or on motion of any party, may request transfer of the action to the Court of Appeals for the Third Court of Appeals District if the district court finds that the public interest requires a prompt, authoritative determination of the legal issues in the case and the case would ordinarily be appealed. After filing of the district court's request with the court of appeals, transfer of the action may be granted by the court of appeals if it agrees with the findings of the district court concerning the application of the statutory standards to the action. On entry of an order by the court of appeals granting transfer, the action is transferred to the court of appeals for decision, and the agency decision in the contested case is subject to judicial review by the court of appeals. The administrative record and the district court record shall be filed by the district clerk with the clerk of the court of appeals. The court of appeals may direct the district court to conduct any necessary evidentiary hearings in connection with the action.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 894 (H.B. 2105), § 2, effective September 1, 1999.)

Sec. 2001.177. Cost of Preparing Agency Record.

(a) A state agency by rule may require a party who appeals a final decision in a contested case to pay all or a part of the cost of preparation of the original or a certified copy of the record of the agency proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.1775. Modification of Agency Findings or Decision.

Except as provided by Section 2001.175(c), an agency may not modify its findings or decision in a contested case after proceedings for judicial review of the case have been instituted under Section 2001.176 and during the time that the case is under judicial review.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.21(a), effective September 1, 1995.)

Sec. 2001.178. Cumulative Effect.

This subchapter is cumulative of other means of redress provided by statute.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER H
COURT ENFORCEMENT

Sec. 2001.201. Court Enforcement of Subpoena or Commission.

(a) If a person fails to comply with a subpoena or commission issued under this chapter, the state agency issuing the subpoena or commission, acting through the attorney general, or the party requesting the subpoena or commission may bring suit to enforce the subpoena or commission in a district court in Travis County or in the county in which a hearing conducted by the agency may be held.

(b) A court that determines that good cause exists for the issuance of the subpoena or commission shall order compliance with the subpoena or commission. The court may hold in contempt a person who does not obey the order.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.202. Court Enforcement of Final Orders, Decisions, and Rules.

(a) The attorney general, on the request of a state agency to which it appears that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, may bring an action in a district court authorized to exercise judicial review of the final order or decision or the rule to:

(1) enjoin or restrain the continuation or commencement of the violation; or

(2) compel compliance with the final order or decision or the rule.

(b) The action authorized by this section is in addition to any other remedy provided by law.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER I EXCEPTIONS

Sec. 2001.221. Driver's Licenses.

This chapter does not apply to a suspension, revocation, cancellation, denial, or disqualification of a driver's license or commercial driver's license as authorized by:

(1) Subchapter N, Chapter 521, Transportation Code, except Sections 521.304 and 521.305 of that subchapter, or by Subchapter O or P of that chapter;

(2) Chapter 522, Transportation Code;

(3) Chapter 601, Transportation Code; or

(4) Section 13, Article 42.12, Code of Criminal Procedure.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.22(a), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.197, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1117 (H.B. 3641), § 7, effective September 1, 2000.)

Sec. 2001.222. State Agency Personnel Rules and Practices.

This chapter does not apply to matters related solely to the internal personnel rules and practices of a state agency.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.223. Exceptions from Declaratory Judgment, Court Enforcement, and Contested Case Provisions.

Section 2001.038 and Subchapters C through H do not apply to:

(1) except as provided by Section 531.019, the granting, payment, denial, or withdrawal of financial or medical assistance or benefits under service programs that were operated by the former Texas Department of Human Services before September 1, 2003, and are operated on and after that date by the Health and Human Services Commission or a health and human services agency, as defined by Section 531.001;

(2) action by the Banking Commissioner or the Finance Commission of Texas regarding the issuance of a state bank or state trust company charter for a bank or trust company to assume the assets and liabilities of a financial institution that the commissioner considers to be in hazardous condition as defined by Section 31.002(a) or 181.002(a), Finance Code, as applicable;

(3) a hearing or interview conducted by the Board of Pardons and Paroles or the Texas Department of Criminal Justice relating to the grant, rescission, or revocation of parole or other form of administrative release; or

(4) the suspension, revocation, or termination of the certification of a breath analysis operator or technical supervisor under the rules of the Department of Public Safety.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 914 (H.B. 1543), § 4, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 769 (H.B. 1870), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 7.62, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 1161 (H.B. 75), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.087, effective September 1, 2009.)

Sec. 2001.224. Texas Employment Commission.

Section 2001.038 and Subchapters C through H do not apply to a hearing by the Texas Employment Commission to determine whether or not a claimant is entitled to unemployment compensation, and the remainder of this chapter does not apply other than to matters of unemployment insurance maintained by the commission. Regarding unemployment insurance matters, the commission may not comply with Section 2001.004(3) or 2001.005 relating to orders and decisions.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.225. Certain Alcoholic Beverage Code Appeals.

Section 2001.176(b)(1) does not apply to an appeal under Section 32.18, Alcoholic Beverage Code.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.226. Texas Department of Criminal Justice and Texas Board of Criminal Justice.

This chapter does not apply to a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department or to an action taken under that rule or procedure.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.23(b), effective September 1, 1995.)

SUBCHAPTER Z
MISCELLANEOUS

Sec. 2001.901. Appeal from District Court.

(a) A party may appeal a final district court judgment under this chapter in the manner provided for civil actions generally.

(b) An appeal bond may not be required of a state agency.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2001.902. Saving Clause.

This chapter does not repeal a statutory provision that confers investigatory authority on a state agency, including a provision that grants an agency the power, in connection with investigatory authority, to:

(1) take depositions;
(2) administer oaths or affirmations;
(3) examine witnesses;
(4) receive evidence;
(5) conduct hearings; or
(6) issue subpoenas or summons.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

CHAPTER 2002
TEXAS REGISTER AND ADMINISTRATIVE CODE

Subchapter A. General Provisions

Subchapter B. Texas Register

Subchapter C. Texas Administrative Code

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2002.001. Definitions.

In this chapter:

(1) "Administrative code" means the Texas Administrative Code.

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

(3) "State agency" means a state officer, board, commission, or department with statewide jurisdiction that makes rules or determines contested cases other than:

(A) an agency wholly financed by federal money;

(B) the legislature;

(C) the courts;

(D) the Texas Department of Insurance, as regards proceedings and activities under Title 5, Labor Code, of the department, the commissioner of insurance, or the commissioner of workers' compensation; or

(E) an institution of higher education.

(4) The following terms have the meanings assigned by Section 2001.003:

(A) "contested case";
(B) "license";
(C) "licensing";
(D) "party";
(E) "person"; and
(F) "rule."

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 455 (H.B. 2304), § 1, effective August 28, 1995; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 6.008, effective September 1, 2005.)

Sec. 2002.002. Purpose.

It is the public policy of this state to provide adequate and proper public notice of proposed state agency rules and state agency actions through publication of a state register.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER B
TEXAS REGISTER

Sec. 2002.011. Texas Register.

The secretary of state shall compile, index, cross-index to statute, and publish a publication to be known as the Texas Register. The register shall contain:

(1) notices of proposed rules issued and filed in the office of the secretary of state as provided by Subchapter B of Chapter 2001;

(2) the text of rules adopted and filed in the office of the secretary of state;

(3) notices of open meetings issued and filed in the office of the secretary of state as provided by law;

(4) executive orders issued by the governor;

(5) summaries of requests for opinions of the attorney general and of the Texas Ethics Commission;

(6) summaries of opinions of the attorney general and of the Texas Ethics Commission;

(7) guidelines prepared by the attorney general under Section 2007.041;

(8) notices relating to the preparation of takings impact assessments as provided by Section 2007.043; and

(9) other information of general interest to the public of this state, including:

(A) federal legislation or regulations affecting the state or a state agency; and

(B) state agency organizational and personnel changes.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 517 (S.B. 14), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1134 (H.B. 3207), § 16, effective September 1, 1997.)

Sec. 2002.012. Summaries of Opinions and Requests for Opinions.

The attorney general or the Texas Ethics Commission, as appropriate, shall prepare and forward to the secretary of state for publication in the Texas Register:

(1) summaries of requests for opinions under Section 2002.011(5); and

(2) summaries of opinions under Section 2002.011(6).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1134 (H.B. 3207), § 16, effective September 1, 1997.)

Sec. 2002.013. Frequency of Publication.

The secretary of state shall publish the Texas Register at regular intervals, but not less often than 52 times each calendar year.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 502 (S.B. 1177), § 1, effective September 1, 1997.)

Sec. 2002.014. Omission of Information.

The secretary of state may omit information from the Texas Register if:

(1) the secretary determines that publication of the information would be cumbersome, expensive, or otherwise inexpedient;

(2) on application to the adopting state agency, the information is made available in printed or processed form by the agency; and

(3) the register contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.015. Distribution.

(a) On request, the secretary of state shall make one copy of each issue of the Texas Register available without charge to:

(1) each board, commission, and department with statewide jurisdiction;

(2) the governor;

(3) the lieutenant governor;

(4) the attorney general;

(5) each member and each standing committee of the legislature;

(6) each county judge or each county clerk;

(7) each library of a public university;

(8) one public library in each municipality that has a public library; and

(9) each court of appeals.

(b) The secretary of state shall make copies of the Texas Register available to other persons for a reasonable fee to be fixed by the secretary.

(c) If the secretary of state determines that an entity requesting the Texas Register under Subsection (a) possesses computer and telecommunications equipment that allows the entity to access the Texas Register through the Internet or through an electronic bulletin board, the secretary may comply with Subsection (a) by providing the Texas Register to the entity at no charge through the Internet or through an electronic bulletin board, as applicable.

(d) The secretary of state shall determine whether making the Texas Register available with-

out charge under Subsection (a) results in a revenue shortfall. If there is a shortfall, the secretary of state shall request an appropriation in that amount in the secretary's legislative appropriations request for the next state fiscal biennium for the purpose of complying with Subsection (a). If the secretary of state does not receive an appropriation for that next state fiscal biennium of an amount necessary to cover the secretary's costs in complying with Subsection (a), the secretary may, beginning with the first day of the biennium, charge a subscription fee to entities requesting the Texas Register under Subsection (a) in an amount that will cover the secretary's revenue shortfall in complying with Subsection (a).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 455 (H.B. 2304), § 5, effective August 28, 1995.)

Sec. 2002.0151. Electronic Availability of Texas Register.

(a) Subject to Subsection (e), the secretary of state:

(1) shall make the full text of the Texas Register available to the public through the Internet at no charge; and

(2) may make the full text of the Texas Register available on an electronic bulletin board at no charge.

(b) An edition of the Texas Register that is made available through the Internet or an electronic bulletin board operated by the secretary of state must be made available not later than the date of the edition.

(c) If the secretary of state does not make the full text of the Texas Register available on an electronic bulletin board, the secretary of state shall, on the request of one or more agencies that operate an electronic bulletin board, make the full text of the Texas Register available to at least one requesting agency for posting on that agency's electronic bulletin board until the secretary of state begins operating an electronic bulletin board.

(d) The secretary of state may electronically provide to the public specialized value-added services related to the Texas Register such as clipping services or subscription services at the market price for the services.

(e) The secretary of state shall determine whether making the Texas Register available on the Internet at no charge and on an electronic bulletin board at no charge, as provided by this section, results in a revenue shortfall that is not covered by the sale of value-added services as provided by Subsection (d). The secretary of state shall report any shortfall attributed to the free Internet and electronic bulletin board services to the Legislative Budget Board in its biennial budget. If a shortfall occurs, the secretary shall also request the appropriation of funds for the next biennial budget in the amount of the shortfall to continue the Internet and electronic bulletin board services at no charge. If the requested funds are not appropriated, the secretary of state may, at the beginning of the next state fiscal year, charge user fees for the Internet and electronic bulletin board services in an amount that will compensate the secretary of state for the revenue shortfall.

(Enacted by Acts 1995, 74th Leg., ch. 455 (H.B. 2304), § 2, effective August 28, 1995.)

Sec. 2002.016. Filing Procedures.

(a) To file a document for publication in the Texas Register, a state agency shall, during normal working hours:

(1) deliver to the office of the secretary of state two certified copies of the document for filing; or

(2) send to the secretary of state over dedicated cable or commercial lines between word or data processors one copy of the document to be filed and deliver to the office of the secretary a letter of certification that is signed by the agency's designated certifying agent and liaison and that contains a statement specifying the type of information electronically sent.

(b) On receipt of a document required to be filed in the office of the secretary of state and published in the Texas Register, the secretary shall note the day and hour of filing on the certified copies of the document or on the letter of certification.

(c) One copy of each filed document shall be maintained in original form or on microfilm in a permanent register in the office of the secretary of state.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.017. Rules.

(a) The secretary of state may adopt rules to ensure the effective administration of this subchapter, including rules prescribing paper size and the format of documents required to be filed for publication.

(b) The secretary of state may refuse to accept for filing and publication a document that does not substantially conform to the rules.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.018. Microfilm and Electronic Storage.

The secretary of state may maintain on microfilm or on an electronic storage and retrieval system the

files of state agency rules and other information required to be published in the Texas Register. After microfilming or electronically storing the information, the secretary may destroy the original copies of the information submitted for publication.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.019. Table of Contents; Index.

(a) Each issue of the Texas Register must contain a table of contents.

(b) A cumulative index to all information required to be published in the Texas Register during the previous year shall be published at least once each year.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.020. Certification.

An official of a submitting state agency who is authorized to certify documents of the agency must certify each document that is filed with the secretary of state for publication.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.021. Agency Liaison.

A state agency shall designate at least one individual to act as a liaison through whom all required documents may be submitted to the secretary of state for filing and publication.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.022. Evidentiary Value of Texas Register; Citation.

(a) The contents of the Texas Register are to be judicially noticed and are prima facie evidence of the text of the documents and of the fact that they are in effect on and after the date of the notation.

(b) Without prejudice to another mode of citation, the contents of the Texas Register may be cited by volume and page number.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.023. Exceptions.

This subchapter does not apply to:

(1) a suspension, revocation, cancellation, denial, or disqualification of a driver's license or commercial driver's license as authorized by:

(A) Subchapter N, Chapter 521, Transportation Code, except Sections 521.304 and 521.305 of that subchapter, or by Subchapter O or P of that chapter;

(B) Chapter 522, Transportation Code;

(C) Chapter 601, Transportation Code;

(D) Chapter 724, Transportation Code; or

(E) Section 13, Article 42.12, Code of Criminal Procedure;

(2) matters related solely to the internal personnel rules and practices of a state agency;

(3) the Texas Workforce Commission, other than to matters of unemployment insurance maintained by the commission; or

(4) a rule or internal procedure of the Texas Department of Criminal Justice or Texas Board of Criminal Justice that applies to an inmate or any other person under the custody or control of the department or to an action taken under that rule or procedure.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.23(c), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.198, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1117 (H.B. 3641), § 8, effective September 1, 2000.)

SUBCHAPTER C
TEXAS ADMINISTRATIVE CODE

Sec. 2002.051. Publication of Texas Administrative Code.

(a) The secretary of state shall compile, index, and publish a Texas Administrative Code.

(b) The administrative code shall be periodically supplemented as necessary, but not less often than once each year.

(c) The administrative code shall contain each rule adopted by a state agency under Chapter 2001, but may not contain emergency rules adopted under Section 2001.034.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.052. Omission of Information.

(a) The secretary of state may omit from the administrative code a rule that is general in form if its inclusion in the code is impracticable, undesirable, or unnecessary because it is of local or limited application.

(b) The secretary of state may omit information from the administrative code if:

(1) the secretary determines that publication of the information would be cumbersome, expensive, or otherwise inexpedient;

(2) on application to the adopting state agency, the information is made available in printed or processed form by the agency; and

(3) the administrative code contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

(c) Omission from the administrative code under this section does not affect the validity or effectiveness of an omitted rule.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.053. Purchase and Resale of Administrative Code.

(a) To promote efficiency and economy in state government, the secretary of state may periodically purchase copies of the administrative code for resale and distribution to other branches of state government, state agencies, or institutions.

(b) The purchase does not require the secretary of state to engage in competitive bidding procedures to enter into the contract or license to publish the code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.054. Evidentiary Value of Administrative Code.

State agency rules published in the administrative code, as approved by the secretary of state and as amended by documents later filed with the office of the secretary:

(1) are to be judicially noticed; and

(2) are prima facie evidence of the text of the rules and of the fact that they are in effect on and after the date of the notation.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.055. Rules.

(a) The secretary of state may adopt rules to ensure the effective administration of this subchapter.

(b) The rules may establish:

(1) titles of the administrative code; and

(2) a system of classification of the subject matter of the administrative code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2002.056. Confidentiality of Data Base.

(a) The data base for the administrative code is exempt from disclosure under Chapter 552.

(b) In this section, "data base" means the machine-readable form of the material prepared for and used in the publication of the administrative code and includes:

(1) indexes;

(2) annotations;

(3) tables of contents;

(4) tables of authority;

(5) cross-references;

(6) compiled rules; and

(7) other unique material.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 455 (H.B. 2304), § 3, effective August 28, 1995; am. Acts 1995, 74th Leg., ch. 527 (S.B. 1046), § 1, effective September 1, 1995.)

Sec. 2002.057. Electronic Availability of Administrative Code.

(a) Subject to Subsection (d), the secretary of state:

(1) shall make the full text of the administrative code available to the public through the Internet at no charge, and update the text that is available through the Internet as soon as practicable; and

(2) may make the full text of the administrative code available on an electronic bulletin board at no charge.

(b) If the secretary of state does not make the full text of the administrative code available on an electronic bulletin board, the secretary of state shall, on the request of one or more agencies that operate an electronic bulletin board, make the full text of the administrative code available to at least one requesting agency for posting on that agency's electronic bulletin board until the secretary of state begins operating an electronic bulletin board.

(c) The secretary of state may electronically provide to the public specialized value-added services related to the administrative code such as clipping services or subscription services at the market price for the services.

(d) The secretary of state shall determine whether making the administrative code available on the Internet at no charge and on an electronic bulletin board at no charge, as provided by this section, results in a revenue shortfall that is not covered by the sale of value-added services as provided by Subsection (c). The secretary of state shall report any shortfall attributed to the free Internet and electronic bulletin board services to the Legislative Budget Board in its biennial budget. If a shortfall occurs, the secretary of state shall also request the appropriation of funds for the next biennial budget in the amount of the shortfall to continue the Internet and electronic bulletin board services at no charge. If the requested funds are not appropriated, the secretary of state may, at the beginning of the next state fiscal year, charge user

fees for the Internet and electronic bulletin board services in an amount that will compensate the secretary of state for the revenue shortfall.
(Enacted by Acts 1995, 74th Leg., ch. 455 (H.B. 2304), § 4, effective August 28, 1995.)

Sec. 2002.058. Obsolete or Invalid Rules.

(a) Unless the law provides otherwise, the secretary of state shall remove a state agency's rules from the administrative code after the agency has been abolished. If the legislature transfers the abolished agency's rules to another state agency, the secretary of state shall transfer the rules to the appropriate place in the administrative code.

(b) A state agency shall repeal a rule that has been declared invalid by a final court judgment. For purposes of this subsection, a court judgment is not considered final during the time that the judgment may be reversed by an appellate court.
(Enacted by Acts 2001, 77th Leg., ch. 639 (H.B. 1430), § 2, effective September 1, 2001.)

SUBTITLE B
INFORMATION AND PLANNING

CHAPTER 2051
GOVERNMENT DOCUMENTS, PUBLICATIONS, AND NOTICES

Subchapter C. Notice by Publication in Newspaper

Section

SUBCHAPTER C
NOTICE BY PUBLICATION IN NEWSPAPER

Sec. 2051.053. Refusal of Newspaper to Publish Notice or Citation.

(a) The refusal of a newspaper to publish, without receiving advance payment for making the publication, a notice or citation in a state court proceeding in which the state or a political subdivision of the state is a party and in which the cost of the publication is to be charged as fees or costs of the proceeding is considered an unqualified refusal to publish the notice or citation.

(b) The sworn statement of the newspaper's publisher or the person offering to insert the notice or citation in the newspaper is subject to record as proof of the refusal.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBTITLE C
STATE ACCOUNTING, FISCAL MANAGEMENT, AND PRODUCTIVITY

CHAPTER 2105
ADMINISTRATION OF BLOCK GRANTS

Subchapter A. General Provisions

Section

Subchapter B. Development of Plan; Public Information

Subchapter C. Complaints

Subchapter D. Denial of Services or Benefits

Subchapter E. Nonrenewal or Reduction of Block Grant Funds of Specific Provider

Subchapter F. Reduction of Block Grant Funds for Geographic Area

SUBCHAPTER A GENERAL PROVISIONS

Sec. 2105.001. Definitions.

In this chapter:

(1) "Agency" means:

(A) the Texas Department of Human Services;

(B) the Texas Department of Health;

(C) the Texas Department of Housing and Community Affairs;

(D) the Texas Education Agency;

(E) the Texas Department of Mental Health and Mental Retardation;

(F) the Texas Department on Aging; or

(G) any other commission, board, department, or state agency designated to receive block grant funds.

(2) "Block grant" means a program resulting from the consolidation or transfer of separate federal grant programs, including federal categorical programs, so that the state determines the amounts to be allocated or the method of allocating the amounts to various agencies or programs from the combined amounts, including a program consolidated or transferred under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35).

(3) "Program" means an activity designed to deliver services or benefits provided by state or federal law.

(4) "Provider" means a public or private organization that receives block grant funds or may be eligible to receive block grant funds to provide services or benefits to the public, including:

(A) a local government unit;

(B) a council of government;

(C) a community action agency; or

(D) a private new community developer or nonprofit community association in a community originally established as a new community development program under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4511 et seq.).

(5) "Recipient" means an individual or a class of individuals who receives services or benefits available through block grants.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 173 (S.B. 1336), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.29, effective September 1, 1997.)

Sec. 2105.002. Combination of Programs Not Intended to Reduce Services.

The process of combining categorical federal assistance programs into block grants should not have an overall effect of reducing the relative proportion of services and benefits made available to low-income individuals, elderly individuals, disabled individuals, and migrant and seasonal agricultural workers.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.003. Change in Federal Law or Regulation.

If a change in a federal law or regulation does not provide for temporary waivers to allow compliance with state law and because of the change an agency or provider does not have sufficient time to comply with a procedure required by this chapter, the agency or provider may act in compliance with federal law and shall comply with procedures required by this chapter as soon as possible.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.004. Discrimination Prohibited.

An agency or provider may not use block grant funds in a manner that discriminates on the basis of race, color, national origin, sex, or religion.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.005. Priority to Poverty Programs.

(a) An agency should give priority to programs that remedy the causes and cycle of poverty if:

(1) the alleviation of poverty is a purpose of the block grant; and

(2) the agency has discretion over the types of programs that may be funded with the block grant.

(b) In administering a block grant, an agency shall consult:

(1) low-income recipients;

(2) low-income intended recipients; and

(3) organizations representing low-income individuals.

(c) To the extent consistent with the purpose of the block grant, an agency by rule shall ensure that providers use block grant funds to the maximum benefit of low-income recipients and intended recipients.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.006. Agency Audits.

(a) An agency's expenditure of block grant funds is subject to audit by the state auditor in accordance with Chapter 321.

(b) The state auditor immediately shall transmit a copy of an audit of an agency to the governor. Not later than the 30th day after the date on which an audit of an agency is completed, the governor shall transmit a copy of the audit to the appropriate federal authority.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.007. Provider Audits.

A provider that receives block grant funds from an agency shall provide the agency with evidence that an annual audit of the provider has been performed.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.008. Uniform Management.

Chapter 783 applies to agencies and providers for the purpose of block grant administration.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.009. Primary Care Block Grant.

(a) The Texas Department of Health shall administer the primary care block grant if the department satisfies federal requirements relating to the designation of an agency to administer the grant.

(b) In administering the primary care block grant, the department may:

(1) receive the primary care block grant funds on behalf of the state;

(2) spend primary care block grant funds and state funds specifically appropriated by the legislature to match funds received under a primary care block grant;

(3) make grants to, advance funds to, contract with, and take other actions through community health centers that meet the requirements of 42 U.S.C. Section 254c(e)(3) to provide for the delivery of primary and supplemental health services to medically underserved populations of the state;

(4) adopt necessary rules; and

(5) perform other activities necessary to administer the primary care block grant.

(c) In this section:

(1) "Community health center" has the meaning assigned by 42 U.S.C. Section 254c(a).

(2) "Medically underserved population," "primary health services," and "supplemental health services" have the meanings assigned by 42 U.S.C. Section 254c(b).

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER B
DEVELOPMENT OF PLAN; PUBLIC INFORMATION

Sec. 2105.051. Definition.

In this subchapter, "plan" means a report submitted to the federal government that contains a statement of activities and programs to show the intended and actual use of block grant funds.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.052. Contents of Plan.

A plan must describe:

(1) major changes in policy for each program;

(2) the extent of anticipated reductions or increases in services under the block grant; and

(3) the nature of any fees a recipient must pay to receive services funded under the block grant.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.053. Public Hearings on Intended Use of Funds.

(a) In developing a request for appropriations before each regular legislative session, an agency shall hold public hearings in four locations in different areas of the state to solicit public comment on the intended use of block grant funds.

(b) An agency must conduct at least two of the hearings required by this section after normal agency working hours.

(c) An agency may hold a hearing required by this section in conjunction with:

(1) another agency without regard to whether the block grants administered by the agencies are for different purposes; or

(2) the governor's office.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.054. Notice of Hearing.

(a) An agency shall:

(1) provide notice of a public hearing regarding the plan for a block grant not later than the 15th day before the date of the hearing;

(2) post the notice in a conspicuous place in each agency office;

(3) include in the notice a clear and concise description of the matters to be considered and a statement of the manner in which written comments may be submitted;

(4) maintain lists of interested persons;

(5) mail notices of hearings to interested persons; and

(6) conduct other activities necessary to promote public participation in the public hearing.

(b) A notice prepared under this section must be printed in English and Spanish.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.055. Public Comments.

(a) An agency shall summarize, in a fair manner, the types of public comments received by the agency during public hearings regarding a plan.

(b) If an agency's final decision does not reflect the recommendations of particular classes of public comments, the agency shall provide a reasoned response justifying the agency's decision as to each comment.

(c) An agency shall distribute the summary of public comments and the responses to the comments as part of the plan and shall:

(1) have the summary and response published in the Texas Register; and

(2) make the summary and response available to the public.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.056. Public Information.

(a) An agency shall publish information for the public:

(1) describing the manner in which the agency's staff develops preliminary options for the use of block grants; and

(2) stating the period in which the preliminary work is usually performed.

(b) An agency shall undertake public information activities necessary to ensure that recipients and intended recipients are informed of the availability of services and benefits.

(c) Information published under this section must be printed in English and Spanish.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.057. Consultation Activities.

(a) An agency shall consult interested members of the public to assist the agency in developing preliminary staff recommendations on the use of block grant funds.

(b) During preparation or amendment of a plan, an agency shall consult:

(1) affected groups, including local governments, charitable organizations, and businesses that provide or fund services similar to the services that may be provided by the agency under the block grant; and

(2) any state advisory or coordinating council that has responsibility over programs similar to the programs that may be provided under the block grant.

(c) An agency that is authorized to approve the allocation of more than $10 million in block grant funds in a year by a discretionary manner other than an objective formula required by federal law shall provide that the consultation required by Subsections (a) and (b)(1) must occur in each of the agency's regions.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.058. Public Hearing by Certain Providers.

(a) This section applies to a provider that receives more than $5,000 in block grant funds to be used as the provider determines appropriate.

(b) Annually, a provider shall submit evidence to the agency that a public meeting or hearing was held in a timely manner solely to seek public comment on the needs or uses of block grant funds received by the provider.

(c) A provider may hold a meeting or hearing under Subsection (b) in conjunction with another meeting or hearing of the provider if the meeting or hearing to consider block grant funds is clearly noted in an announcement of the other meeting or hearing.

(d) An agency by rule may require a provider to undertake other reasonable efforts to seek public participation.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.059. Availability of Rules and Eligibility Requirements.

An agency shall maintain for public inspection in each office:

(1) the rules and eligibility requirements relating to the administration of block grant funds; and

(2) a digest or index to rules and decisions.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER C COMPLAINTS

Sec. 2105.101. Publication of Procedures.

An agency shall distribute publications that describe:

(1) the block grant programs administered by the agency; and

(2) how to make public comments and complaints about the quality of services funded by the block grant.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.102. Investigation.

(a) An agency shall have a procedure for investigating complaints about the programs funded by a block grant.

(b) Before the 31st day after the date on which the complaint is received, the agency shall:

(1) complete the investigation; or

(2) notify the complainant when the investigation can be completed, if the investigation cannot be completed within the period provided by this subsection.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.103. Notice to Provider; Response.

(a) An agency shall inform a provider of any complaint received concerning the provider's services.

(b) An agency shall give a provider a reasonable time to respond to a complaint.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.104. Use of Complaints; Annual Summary.

(a) An agency shall use the complaint system to monitor and ensure compliance with applicable federal and state law.

(b) An agency shall consider the history of complaints regarding a provider in determining whether to renew a contract or subgrant for the use of block grant funds by the provider.

(c) An agency shall summarize annually the types of complaints received by the agency.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER D
DENIAL OF SERVICES OR BENEFITS

Sec. 2105.151. Right to Request Hearing on Denial of Services or Benefits.

Except as provided by Section 2001.223(1), an affected person who alleges that a provider or an agency has denied all or part of a service or benefit funded by block grant funds in a manner that is unjust, discriminatory, or without reasonable basis in law or fact may request an administrative hearing under Chapter 2001.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.152. Department of Human Services Procedures for Fair Hearing.

The Texas Department of Human Services shall use procedures for conducting a fair hearing under this subchapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.153. Hearing on Denial of Services or Benefits by Agency.

(a) An agency administering block grant funds shall conduct a timely hearing on the denial of a service or benefit by the agency.

(b) On determining that services were wrongfully denied, an agency shall take appropriate action to correct the practices or procedures of the agency.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.154. Hearing on Denial of Services or Benefits by Provider.

(a) The agency that provides block grant funds to a provider shall conduct a timely hearing on the denial of a service or benefit by the provider.

(b) A hearing under this section must be held in the locality served by the provider.

(c) On determining that services were wrongfully denied, an agency shall take appropriate action to correct the practices or procedures of the provider.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER E
NONRENEWAL OR REDUCTION OF BLOCK GRANT FUNDS OF SPECIFIC PROVIDER

Sec. 2105.201. pplication of Subchapter; Exception.

(a) This subchapter applies if:

(1) an agency reduces a provider's block grant funding by 25 percent or more; and

(2) the agency provides the block grant funds to another provider in the same geographic area to provide similar services.

(b) This subchapter does not apply if a provider's block grant funding becomes subject to the agency's competitive bidding rules requiring the agency to invite bids for competitive evaluation.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.202. Rules; Considerations.

(a) An agency shall adopt specific rules defining good cause for nonrenewal of a provider's contract or reduction of a provider's funding.

(b) In deciding whether to renew a provider's contract or to reduce a provider's funding, an agency shall consider:

(1) the effectiveness of services rendered by various providers;

(2) the cost efficiency of programs undertaken by each provider;

(3) the extent to which the services of each provider meet the needs of groups or classes of individuals who are poor or underprivileged or have a disability;

(4) the degree to which services can be provided by other programs in that area;

(5) the extent to which recipients are involved in the providers' decision making; and

(6) the need to provide services in the state without discrimination as to race, religion, or geographic region.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.203. Notice to Provider of Reduction.

Not later than the 30th day before the date on which block grant funds are reduced, an agency shall send a provider a written statement specifying the reason for reducing the funding.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.204. Hearing on Reduction of Funding.

(a) After receiving notice that block grant funds are to be reduced as provided by Section 2105.203, a provider may request an administrative hearing under Chapter 2001 if the provider alleges that a reduction of funding:

(1) violates the rules adopted under Section 2105.202(a);

(2) is discriminatory; or

(3) is without reasonable basis in law or fact.

(b) Not later than the 30th day after the date the request is received, the agency shall conduct a hearing to determine whether the funding should be reduced. The agency and the provider may agree to postpone the hearing.

(c) An agency shall hold at least one session of the hearing in the locality served by the provider and shall hear local public comment on the matter at that time if requested to do so by:

(1) a local elected official; or

(2) an organization with 25 or more members.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.205. Interim Contract Pending Hearing.

If a provider requests an administrative hearing under Section 2105.204, the agency may enter into an interim contract with the provider or another provider for the services formerly provided by the provider while administrative or judicial proceedings are pending.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER F
REDUCTION OF BLOCK GRANT FUNDS FOR GEOGRAPHIC AREA

Sec. 2105.251. Application of Subchapter; Exception.

(a) This subchapter applies if:

(1) an agency reduces a provider's block grant funding by 25 percent or more; and

(2) the agency does not provide the block grant funds to another provider in the same geographic area.

(b) This subchapter does not apply if the provider received block grant funds for a specified period under a competitive evaluation of proposals.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.252. Notice to Provider.

Not later than the 30th day before the date on which the block grant funds are to be reduced, an agency shall send a provider a written statement specifying the reason for reducing the funding. The statement must be sent to the provider so that the provider has sufficient time to participate in public hearings and consultation proceedings provided by Subchapter B.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.253. Rules; Considerations.

The rules adopted under Section 2105.202(a) and the considerations provided by Section 2105.202(b) apply to a reduction of block grant funds under this subchapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER G
TERMINATION OF BLOCK GRANT FUNDS

Sec. 2105.301. Notice to Provider.

An agency that proposes to terminate block grant funds of a provider that has violated the terms of a contract or grant shall send the provider a written statement specifying the reasons for the termination not later than the 31st day before the termination date.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2105.302. Hearing.

(a) After receiving notice of termination of a contract or subgrant from block grant funds, a provider may request an administrative hearing under Chapter 2001.

(b) Not later than the 30th day after the date the request is received, the agency shall conduct a hearing to determine whether the funding should be terminated. The agency and the provider may agree to postpone the hearing.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER H
JUDICIAL REVIEW

Sec. 2105.351. Judicial Review.

A party to a hearing under Subchapter D, E, F, or G may seek judicial review of the agency's action as provided by Subchapter G, Chapter 2001.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

CHAPTER 2110
STATE AGENCY ADVISORY COMMITTEES

Section

Sec. 2110.001. Definition.

In this chapter, "advisory committee" means a committee, council, commission, task force, or other entity with multiple members that has as its primary function advising a state agency in the executive branch of state government.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 45, effective September 1, 2001.)

Sec. 2110.0011. Applicability of Chapter.

This chapter applies unless and to the extent:

(1) another state law specifically states that this chapter does not apply; or

(2) a federal law or regulation:

(A) imposes an unconditional requirement that irreconcilably conflicts with this chapter; or

(B) imposes a condition on the state's eligibility to receive money from the federal government that irreconcilably conflicts with this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 46, effective September 1, 2001.)

Sec. 2110.0012. Establishment of Advisory Committees.

For purposes of this chapter, a state agency has established an advisory committee if:

(1) state or federal law has specifically created the committee to advise the agency; or

(2) the agency has, under state or federal law, created the committee to advise the agency.

(Enacted by Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 46, effective September 1, 2001.)

Sec. 2110.002. Composition of Advisory Committees.

(a) An advisory committee must be composed of a reasonable number of members not to exceed 24.

(b) The composition of an advisory committee that advises a state agency regarding an industry or occupation regulated or directly affected by the agency must provide a balanced representation between:

(1) the industry or occupation; and

(2) consumers of services provided by the agency, industry, or occupation.

(c) This section does not apply to an advisory committee established by the Texas Department of Motor Vehicles.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 47, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1290 (H.B. 2017), § 43, effective September 1, 2011.)

Sec. 2110.003. Presiding Officer.

(a) An advisory committee shall select from among its members a presiding officer.

(b) The presiding officer shall preside over the advisory committee and report to the advised state agency.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 48, effective September 1, 2001.)

Sec. 2110.004. Reimbursement of Members' Expenses; Appropriations Process.

(a) Notwithstanding other law, the manner and amount of reimbursement for expenses, including travel expenses, of members of an advisory committee may be prescribed only:

(1) by the General Appropriations Act; or

(2) through the budget execution process under Chapter 317 if the advisory committee is created after it is practicable to address the existence of the committee in the General Appropriations Act.

(b) A state agency that is advised by an advisory committee must request authority to reimburse the expenses of members of the committee through the appropriations or budget execution process, as appropriate, if the agency determines that the expenses of committee members should be reimbursed. The request must:

(1) identify the costs related to the advisory committee's existence, including the cost of agency staff time spent in support of the committee's activities;

(2) state the reasons the advisory committee should continue in existence; and

(3) identify any other advisory committees created to advise the agency that should be consolidated or abolished.

(c) As part of the appropriations and budget execution process, the governor and the Legislative Budget Board shall jointly identify advisory committees that should be abolished. The comptroller may recommend to the governor and the Legislative Budget Board that an advisory committee should be abolished.

(d) The General Appropriations Act may provide for reimbursing the expenses of members of certain advisory committees without providing for reimbursing the expenses of members of other advisory committees.

(e) This section does not apply to an advisory committee the services of which are determined by the governing board of a retirement system trust fund to be necessary for the performance of the governing board's fiduciary duties under the state constitution.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997.)

Sec. 2110.005. Agency-Developed Statement of Purpose and Tasks; Reporting Requirements.

A state agency that establishes an advisory committee shall by rule:

(1) state the purpose and tasks of the committee; and

(2) describe the manner in which the committee will report to the agency.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 49, effective September 1, 2001.)

Sec. 2110.006. Agency Evaluation of Committee Costs and Effectiveness.

A state agency that has established an advisory committee shall evaluate annually:

(1) the committee's work;

(2) the committee's usefulness; and

(3) the costs related to the committee's existence, including the cost of agency staff time spent in support of the committee's activities.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 50, effective September 1, 2001.)

Sec. 2110.007. Report to the Legislative Budget Board.

A state agency that has established an advisory committee shall report to the Legislative Budget Board the information developed in the evaluation required by Section 2110.006. The agency shall file the report biennially in connection with the agency's request for appropriations.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 51, effective September 1, 2001.)

Sec. 2110.008. Duration of Advisory Committees.

(a) A state agency that has established an advisory committee may designate the date on which the committee will automatically be abolished. The designation must be by rule. The committee may continue in existence after that date only if the agency amends the rule to provide for a different abolishment date.

(b) Unless the state agency that establishes an advisory committee designates a different date under Subsection (a), the committee is automatically abolished on the later of:

(1) September 1, 2005; or

(2) the fourth anniversary of the date of its creation.

(c) An advisory committee that state or federal law has specifically created as described in Section 2110.0012(1) is considered for purposes of Subsection (b)(2) to have been created on the effective date of that law unless the law specifically provides for a different date of creation.

(d) This section does not apply to an advisory committee that has a specific duration prescribed by statute.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 16.01(a), effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 52, effective September 1, 2001.)

SUBTITLE D
STATE PURCHASING AND GENERAL SERVICES

CHAPTER 2157
PURCHASING: PURCHASE OF AUTOMATED INFORMATION SYSTEMS

Subchapter B. Commodity Items

Section

SUBCHAPTER B
COMMODITY ITEMS

Sec. 2157.068. [Expires September 1, 2015] Purchase of Information Technology Commodity Items.

(a) In this section, "commodity items" means commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the department determines that a reasonable demand exists in two or more state agencies. The term includes seat management, through which a state agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the state agency, including all necessary hardware, software, and support services.

(b) The department shall negotiate with vendors to obtain the best value for the state in the purchase of commodity items. When negotiating with a vendor, the department shall use information related to the state's historical spending levels on particular commodity items to secure the best value for the state. The department may consider strategic sourcing and other methodologies to select the vendor offering the best value on commodity items. The terms and conditions of a license agreement between a vendor and the department under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors. The department shall, to the greatest extent practicable, negotiate a specific price for commonly purchased commodity items. If the department selects a vendor based on the vendor's offer of a percentage discount from the list price of commodity items, the department shall document in writing how that arrangement obtains the best value for the state.

(c) In contracting for commodity items under this section, the department shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses and persons with disabilities' products and services available under Chapter 122, Human Resources Code.

(d) The department may charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the department in an amount that is sufficient to recover costs associated with the administration of this section. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing shared information resources technology services under Chapter 2054.

(e) The department shall compile and maintain a list of commodity items available for purchase through the department that have a lower price than the prices for commodity items otherwise available to state agencies under this chapter. The department shall make the list available on the world wide web or on a suitable successor to the world wide web if the technological developments involving the Internet make it advisable to do so.

(f) The department may adopt rules regulating a purchase by a state agency of a commodity item under this section, including a requirement that, notwithstanding other provisions of this chapter, the agency must make the purchase in accordance with a contract developed by the department unless:

(1) the agency obtains:

(A) an exemption from the department; or

(B) express prior approval from the Legislative Budget Board for the expenditure necessary for the purchase; or

(2) the department certifies in writing that the commodity item is not available for purchase

under an existing contract developed by the department.

(f-1) Subject to Subsection (f-2), a state agency may purchase a commodity item through a contract developed by a local government purchasing cooperative under Chapter 791 if the department certifies in writing that the commodity item is not available for purchase under an existing contract developed by the department.

(f-2) A contract used by a state agency that purchases a commodity item through a contract described by Subsection (f-1) is subject to all provisions required by applicable law to be included in a state agency contract without regard to whether:

(1) the provision appears on the face of the contract; or

(2) the contract includes any provision to the contrary.

(g) The Legislative Budget Board's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f)(1)(B). A state agency must request an exemption from the department under Subsection (f)(1)(A) before seeking prior approval from the Legislative Budget Board under Subsection (f)(1)(B).

(h) The department shall, in cooperation with state agencies, establish guidelines for the classification of commodity items under this section. The department may determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.

(i) Unless the agency has express statutory authority to employ a best value purchasing method other than a purchasing method designated by the commission under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the department or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

(Enacted by Acts 1999, 76th Leg., ch. 860 (H.B. 1895), § 2, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.17, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1068 (H.B. 1516), § 1.08, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1081 (H.B. 2918), §§ 11, 12, effective September 1, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 23.06, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 48 (H.B. 2472), § 17, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 151 (H.B. 1994), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 48 (H.B. 2472), § 25 provides: "Sections 2054.522 and 2054.552, Government Code, as added by this Act, and Section 2157.068(b), Government Code, as amended by this Act, apply only to a contract for which a solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2013. A contract for which a solicitation of bids or proposals or similar expressions of interest is published before September 1, 2013, is governed by the law in effect on the date the state agency first publishes the solicitation of bids or proposals or similar expressions of interest, and the former law is continued in effect for that purpose."

CHAPTER 2171
TRAVEL AND VEHICLE FLEET SERVICES

Subchapter B. Travel Services

Section

SUBCHAPTER B
TRAVEL SERVICES

Sec. 2171.055. Participation in Travel Services Contracts.

(a) State agencies in the executive branch of state government shall participate under commission rules in the commission's contracts for travel services, provided that all travel agents approved by the commission are permitted to contract with the state and provide travel services to all state agencies.

(b) An institution of higher education as defined by Section 61.003, Education Code, is not required to participate in the commission's contracts for travel agency services or other travel services purchased from funds other than general revenue funds or educational and general funds as defined by Section 51.009, Education Code. The Employees Retirement System of Texas is not required to participate in the commission's contracts for travel agency services or other travel services purchased from funds other than general revenue funds.

(c) The commission may provide by rule for exemptions from required participation.

(d) Agencies of the state that are not required to participate in commission contracts for travel services may participate as provided by Section 2171.051.

(e) A county officer or employee who is engaged in official county business may participate in the commission's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. A county sheriff or deputy sheriff or juvenile probation officer who is transporting a state prisoner under a felony warrant may participate in the commission's contract for travel services for

purposes of obtaining reduced airline fares and reduced travel agent fees for the law enforcement or probation officer and the prisoner. The commission may charge a participating county a fee not to exceed the costs incurred by the commission in providing services under this subsection. The commission shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to counties under this subsection. The commission shall deposit the fees collected under this subsection to the credit of the county airline fares account. The county airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The commission shall adopt rules and make or amend contracts as necessary to administer this subsection.

(f) An officer or employee of a public junior college, as defined by Section 61.003, Education Code, of an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code, or of a school district who is engaged in official business may participate in the commission's contract for travel services. The commission may charge a participating public junior college, open-enrollment charter school, or school district a fee not to exceed the costs incurred by the commission in providing services under this subsection. The commission shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to public junior colleges, open-enrollment charter schools, and school districts under this subsection. The commission shall deposit the fees collected under this subsection to the credit of the public education travel account. The public education travel account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The commission shall adopt rules and make or amend contracts as necessary to administer this subsection.

(g) A municipal officer or employee who is engaged in official municipal business may participate in the commission's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The commission may charge a participating municipality a fee not to exceed the costs incurred by the commission in providing services under this subsection. The commission shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to municipalities under this subsection. The commission shall deposit the fees collected under this subsection to the credit of the municipality airline fares account. The municipality airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The commission shall adopt rules and make or amend contracts as necessary to administer this subsection.

(h) A board member or employee of a communication district or an emergency communication district established under Chapter 772, Health and Safety Code, who is engaged in official district business may participate in the commission's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The commission may charge a participating district a fee not to exceed the costs incurred by the commission in providing services under this subsection. The commission shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to districts under this subsection. The commission shall deposit the fees collected under this subsection to the credit of the emergency communication district airline fares account. The emergency communication district airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The commission shall adopt rules and make or amend contracts as necessary to administer this subsection.

(i) An officer or employee of a transportation or transit authority, department, district, or system established under Subtitle K, Title 6, Transportation Code, who is engaged in official business of the authority, department, district, or system may participate in the comptroller's contracts for travel services. The comptroller may charge a participating authority, department, district, or system a fee not to exceed the costs incurred by the comptroller in providing services under this subsection. The comptroller shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to authorities, departments, districts, and systems under this subsection.

(j) An officer or employee of a hospital district created under general or special law who is engaged in official hospital district business may participate in the commission's contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The commission may charge a participating hospital district a fee not to exceed the costs incurred by the commission in providing services under this subsection. The commission shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to hospital districts under this subsection. The commission shall deposit the fees collected under this subsection to the credit of the hospital district airline fares account. The hospital district airline fares account is an account in the general revenue fund that may be appropri-

ated only for the purposes of this chapter. The commission shall adopt rules and make or amend contracts as necessary to administer this subsection. (Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 17.11(b), effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 281 (H.B. 255), §§ 1, 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 46 (S.B. 204), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1541 (S.B. 1130), § 56, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 568 (H.B. 3150), § 1, effective June 11, 2001; am. Acts 2003, 78th Leg., ch. 482 (H.B. 898), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 501 (H.B. 1061), § 1, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(40), effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 891 (S.B. 1663), § 1, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1308 (H.B. 3047), § 1, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 207 (S.B. 899), § 1, effective May 27, 2009; am. Acts 2011, 82nd Leg., ch. 506 (H.B. 1550), § 1, effective June 17, 2011.)

CHAPTER 2175
SURPLUS AND SALVAGE PROPERTY

Subchapter A. General Provisions

Subchapter B. Commission Powers and Duties

Subchapter C. Direct Transfer or Other Disposition of Surplus or Salvage Property by State Agency [Repealed]

Subchapter D. Disposition of Surplus or Salvage Property

Subchapter E. Destruction or Donation of Surplus or Salvage Property

Subchapter F. Exceptions

Subchapter G. Federal Surplus Property

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2175.001. Definitions.

In this chapter:

(1) "Assistance organization" means:

(A) a nonprofit organization that provides educational, health, or human services or assistance to homeless individuals;

(B) a nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;

(C) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance office of the Agency for International Development;

(D) a group, including a faith-based group, that enters into a financial or nonfinancial agreement with a health or human services agency to provide services to that agency's clients;

(E) a local workforce development board created under Section 2308.253;

(F) a nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;

(G) the Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Agriculture Code;

(H) a nonprofit computer bank that solicits, stores, refurbishes, and redistributes used computer equipment to public school students and their families; and

(I) a nonprofit organization that provides affordable housing.

(1-a) "Commission" means the Texas Facilities Commission.

(2) "Personal property" includes:

(A) personal property lawfully confiscated and subject to disposal by a state agency; and

(B) personal property affixed to real property, if its removal and disposition is for a lawful purpose under this or another law.

(3) "Salvage property" means personal property that through use, time, or accident is so damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

(4) "Surplus property" means personal property that exceeds a state agency's needs and is not required for the agency's foreseeable needs. The term includes used or new property that retains some usefulness for the purpose for which it was intended or for another purpose.

(5) "Data processing equipment" means equipment described by Section 2054.003(3)(A).

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 419 (S.B. 1105), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1002 (H.B. 2840), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1004 (H.B. 936), § 5, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.01, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 908 (S.B. 912), § 1, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 125 (H.B. 22), § 1, effective May 24, 2005; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.38, effective September 1, 2007.)

Sec. 2175.002. Administration of Chapter.

The commission is responsible for the disposal of surplus and salvage property of the state. The commission's surplus and salvage property division shall administer this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.03, effective September 28, 2011.)

Sec. 2175.003. Separate and Independent Operation of Surplus and Salvage Property Division [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 14, effective May 19, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.004. Civil Air Patrol; Volunteer Fire Departments.

For purposes of this chapter:

(1) the Civil Air Patrol, Texas Wing, is considered a state agency having the authority to acquire surplus or salvage property; and

(2) a volunteer fire department is considered a political subdivision.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 2, effective May 19, 1997.)

SUBCHAPTER B
COMMISSION POWERS AND DUTIES

Sec. 2175.061. Rules, Forms, and Procedures.

(a) The commission shall establish and maintain procedures for the transfer, sale, or disposal of surplus and salvage property as prescribed by law.

(b) Subject to Subsection (c), the commission may prescribe forms and reports necessary to administer this chapter and may adopt necessary rules, including rules governing the sale or transfer of surplus or salvage property to state agencies, political subdivisions, or assistance organizations.

(c) Subject to a risk assessment and to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, the state auditor may review and comment on the forms and reports prescribed and the rules adopted by the commission under Subsection (b).

(d) The commission may by rule determine the best method of disposal for surplus and salvage property of the state under this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.28, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 38, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(41), effective September 1, 2005.)

Sec. 2175.062. Mailing List; List of Prospective Buyers.

The commission shall maintain:

(1) a mailing list, which it shall renew annually, of assistance organizations and individuals responsible for purchasing for political subdivisions who have requested information regarding available state surplus or salvage property; and

(2) a list of other prospective buyers of surplus and salvage property.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.063. Maximum Return from Disposition of Surplus or Salvage Property.

(a) The commission shall attempt to realize the maximum benefit to the state in selling or disposing of surplus and salvage property.

(b) The commission may reject any or all offers for surplus or salvage property if it determines that rejection is in the state's best interests.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.064. Cooperation in Evaluation and Analysis.

(a) The commission shall cooperate with state agencies in an ongoing effort to evaluate surplus and salvage property to minimize loss resulting from accumulations of property.

(b) The commission shall cooperate with the state auditor in analyzing surplus and salvage property.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.065. Delegation of Authority to State Agency.

(a) The commission may authorize a state agency to dispose of surplus or salvage property if the agency demonstrates to the commission its ability to dispose of the property under this chapter in a manner that results in cost savings to the state, under commission rules adopted under this chapter.

(b) The commission shall establish by rule the criteria for determining that a delegation of authority to a state agency results in cost savings to the state.

(c) If property is disposed of under this section, the disposing state agency shall report the transaction to the commission. The report must include a description of the property disposed of, the reasons for disposal, the price paid for the property disposed of, and the recipient of the property disposed of.

(d) If the commission determines that a violation of a state law or rule has occurred based on the report under Subsection (c), the commission shall report the violation to the Legislative Budget Board.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.02, effective

January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.04, effective September 28, 2011.)

SUBCHAPTER C
DIRECT TRANSFER OR OTHER DISPOSITION OF SURPLUS OR SALVAGE PROPERTY BY STATE AGENCY [REPEALED]

Sec. 2175.121. Applicability [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.122. State Agency Notice to Commission and Comptroller [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.121); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.123. Determining Method of Disposal [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.122); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.124. Commission Notice to Other Entities [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.122); am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.1245. Advertising on Comptroller Website [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 2001, 77th Leg., ch. 816, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.125. Direct Transfer; Monitoring by Commission [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 3, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.123); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.123); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 341 (S.B. 1139), § 1, effective September 1, 2005.)

Sec. 2175.126. Notice of Transfer to Comptroller; Adjustment of Appropriations and Property Accounting Records; Removal from Website [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 4, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.124); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.124); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.127. Priority for Transfer to State Agency [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011. (Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 5, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.125); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.125); am. Acts 2003, 78th

Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.128. Disposition of Data Processing Equipment [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 1999, 76th Leg., ch. 419 (S.B. 1105), § 3, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1272 (S.B. 1458), § 6.02, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.126); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.126); am. Acts 2003, 78th Leg., ch. 908 (S.B. 912), § 2, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 571 (S.B. 2178), § 2, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 714 (H.B. 2893), § 6, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1407 (H.B. 4294), § 10, effective June 19, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 6 (S.B. 6), § 68, effective July 19, 2011.)

Sec. 2175.129. Disposition by Competitive Bidding, Auction, or Direct Sale [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.181); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.181); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.130. Disposition by Direct Sale to Public [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001; Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.131. Purchaser's Fee [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.182); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.182); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.132. Advertisement of Sale [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 6, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.183); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.183); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.133. Reporting Sale; Property Accounting Adjustment [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 7, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.184); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.184); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

Sec. 2175.134. Proceeds of Sale [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.
(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.185); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.185); am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), §§ 7.29, 7.37, effective June 18, 2003.)

Sec. 2175.135. Purchaser's Title [Repealed].

Repealed by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.01, effective September 28, 2011.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 816 (H.B. 834), § 1, effective September 1, 2001 (renumbered from Sec. 2175.186); am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002 (renumbered from Sec. 2175.186); am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(b), effective September 1, 2003.)

SUBCHAPTER D
DISPOSITION OF SURPLUS OR SALVAGE PROPERTY

Sec. 2175.181. Applicability.

This subchapter applies to a state agency delegated the authority to dispose of surplus or salvage property under Section 2175.065.

(Enacted by Acts 1995, 2001,77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.06, effective September 28, 2011.)

Sec. 2175.1815. Alternative Applicability [Expired].

Expired pursuant to Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2003.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002.)

Sec. 2175.182. State Agency Transfer of Property.

(a) A state agency that determines it has surplus or salvage property shall inform the commission of that fact for the purpose of determining the method of disposal of the property. The commission may take physical possession of the property.

(b) Based on the condition of the property, the commission, in conjunction with the state agency, shall determine whether the property is:

(1) surplus property that should be offered for transfer under Section 2175.184 or sold to the public; or

(2) salvage property.

(c) Following the determination in Subsection (b), the commission shall direct the state agency to inform the comptroller's office of the property's kind, number, location, condition, original cost or value, and date of acquisition.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.30, effective June 18, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.07, effective September 28, 2011.)

Sec. 2175.1825. Advertising on Comptroller Website.

(a) Not later than the second day after the date the comptroller receives notice from a state agency under Section 2175.182(c), the comptroller shall advertise the property's kind, number, location, and condition on the comptroller's website.

(b) The comptroller shall provide the commission access to all records in the state property accounting system related to surplus and salvage property.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.08, effective September 28, 2011.)

Sec. 2175.183. Commission Notice to Other Entities.

The commission shall inform other state agencies, political subdivisions, and assistance organizations of the comptroller's website that lists surplus property that is available for sale.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B.311), § 11.03, effective January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.09, effective September 28, 2011.)

Sec. 2175.184. [Expires September 1, 2015] Direct Transfer.

(a) During the 10 business days after the date the property is posted on the comptroller's website, a state agency, political subdivision, or assistance organization shall coordinate with the commission for a transfer of the property at a price established by the commission. A transfer to a state agency has priority over any other transfer during this period.

(b) A political subdivision or assistance organization may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of property acquired under this section or acquired from a state agency under Section 2175.241 before the second anniversary of the date the property was acquired. A political subdivision or an assistance organization that violates this subsection shall remit to the commission the amount the political subdivision or assistance organization received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless the commission authorizes the action taken by the political subdivision or assistance organization with respect to the property.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.10, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 21, effective June 14, 2013.)

Sec. 2175.185. Notice of Transfer to Comptroller; Adjustment of Appropriations and Property Accounting Records; Removal from Website.

(a) If property is transferred to a state agency under Section 2175.184, the participating agencies shall report the transaction to the comptroller.

(b) On receiving notice under this section, the comptroller shall, if necessary, adjust state property accounting records.

(c) Not later than the second day after the date the comptroller receives notice under Subsection (a), the comptroller shall remove the property from the list of surplus property for sale on the comptroller's website.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.31, effective June 18, 2003.)

Sec. 2175.186. Disposition by Competitive Bidding, Auction, or Direct Sale.

(a) If a disposition of a state agency's surplus property is not made under Section 2175.184, the commission shall sell the property by competitive bid, auction, or direct sale to the public, including a sale using an Internet auction site. The commission may contract with a private vendor to assist with the sale of the property.

(b) The commission shall determine which method of sale shall be used based on the method that is most advantageous to the state under the circumstances. The commission shall adopt rules establishing guidelines for making that determination.

(c) In using an Internet auction site to sell surplus property under this section, the commission shall post the property on the site for at least 10 days.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.11, effective September 28, 2011.)

Sec. 2175.187. Disposition by Direct Sale to Public.

(a) If the commission determines that selling the property by competitive bid or auction, including a sale using an Internet auction site, would not maximize the resale value of the property to the state, the commission may sell surplus property directly to the public.

(b) The commission shall set a fixed price for the property in cooperation with the state agency that owns the property.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002.)

Sec. 2175.188. Purchaser's Fee.

(a) For property that is sold under Section 2175.186 or 2175.187, the commission shall collect a fee from the purchaser.

(b) The commission shall set the fee at an amount that is:

(1) sufficient to recover costs associated with the sale; and

(2) at least two percent but not more than 12 percent of sale proceeds.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002.)

Sec. 2175.189. Advertisement of Sale.

If the value of an item or a lot of property to be sold is estimated to be more than $25,000, the commission shall advertise the sale at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.12, effective September 28, 2011.)

Sec. 2175.190. Reporting Sale; Property Accounting Adjustment.

(a) On the sale by the commission of surplus or salvage property, the commission shall report the property sold and the sale price to the state agency that owned the property and to the comptroller.

(b) If property reported under this section is on the state property accounting system, the comptroller shall remove the property from the property accounting records.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002.)

Sec. 2175.191. Proceeds of Sale.

(a) Proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services or assistance from a private vendor, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

(b) [Repealed by Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.37, effective June 18, 2003.]

(c) Proceeds from the sale of surplus and salvage property of the State Aircraft Pooling Board shall be deposited to the credit of the board.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002; am. Acts

2003, 78th Leg., ch. 309 (H.B. 3042), §§ 7.32, 7.37, effective June 18, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.13, effective September 28, 2011.)

Sec. 2175.192. Purchaser's Title.

A purchaser of surplus property at a sale conducted under Section 2175.186 or 2175.187 obtains good title to the property if the purchaser has in good faith complied with:

(1) the conditions of the sale; and

(2) applicable commission rules.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002.)

Sec. 2175.193. Contracts for Destruction of Property.

The commission shall contract for the disposal of property under Subchapter E in a manner that maximizes value to the state.

(Enacted by Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 11.03, effective January 1, 2002.)

SUBCHAPTER E
DESTRUCTION OR DONATION OF SURPLUS OR SALVAGE PROPERTY

Sec. 2175.241. Destruction or Donation of Surplus or Salvage Property.

If the commission or a state agency cannot otherwise sell or dispose of property in accordance with this chapter or has determined that the property has no resale value, the property may be:

(1) destroyed as worthless salvage; or

(2) donated to an assistance organization.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 8, effective May 19, 1997; am. Acts 2005, 79th Leg., ch. 125 (H.B. 22), § 3, effective May 24, 2005.)

Sec. 2175.242. Removal of Destroyed or Donated Property from State Property Accounting Records.

(a) On destruction or donation of property under this subchapter, the comptroller may remove the property from the state property accounting records.

(b) Authorization by the commission is not required for the deletion of salvage items of another state agency from the state property accounting records.

(c) This subchapter does not affect Section 403.273, which provides for the deletion from state property accounting records of a state agency's missing property.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 9, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 59, effective June 15, 2001; am. Acts 2005, 79th Leg., ch. 125 (H.B. 22), §§ 4, 5, effective May 24, 2005.)

SUBCHAPTER F
EXCEPTIONS

Sec. 2175.301. Surplus Property of Legislature.

(a) This chapter does not apply to disposition of surplus property by either house of the legislature under a disposition system provided by rules of the administration committee of each house.

(b) If surplus property of either house of the legislature is sold, proceeds of the sale shall be deposited in the state treasury to the credit of that house's appropriation.

(c) An agency in the legislative branch shall dispose of its surplus or salvage property under a disposition system established by the agency. This chapter does not apply to the agency's disposition of its surplus or salvage property under that system. That system shall give preference to transferring the property directly to, in order of priority:

(1) a public school;

(2) another public governmental agency; or

(3) an assistance organization.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 266 (S.B. 996), § 1, effective May 26, 1997.)

Sec. 2175.302. Exception for Eleemosynary Institutions.

Except as provided by Section 2175.905(b), this chapter does not apply to the disposition of surplus or salvage property by a state eleemosynary institution.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 274 (H.B. 3226), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 419 (S.B. 1105), § 4, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1281 (S.B. 1451), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 9.020(i), effective September 1, 2003; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.14, effective September 28, 2011.)

Sec. 2175.303. Exception for Certain Products.

This chapter does not apply to disposition of:

(1) a product or by-product of research, forestry, agriculture, livestock, or an industrial enterprise; or

(2) certain recyclable materials, including paper, cardboard, aluminum cans, plastics, glass, one-use pallets, used tires, used oil, and scrap metal, when the disposition is not in the best interest of the state or economically feasible.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 10, effective May 19, 1997.)

Sec. 2175.304. Exception for Institutions of Higher Education.

(a) This chapter does not apply to the disposition of surplus or salvage property of a university system or of an institution or agency of higher education except as provided by this section.

(b) The governing board of each university system or institution or agency of higher education included within the definition of 'state agency' under Section 2151.002 shall establish written procedures for the disposition of surplus or salvage property of the system, institution, or agency. The procedures shall allow for the direct transfer of materials or equipment that can be used for instructional purposes to a public school or school district, or an assistance organization designated by the school district, at a price or for other consideration to which the system, institution, or agency and the public school or school district or the assistance organization agree or for no consideration as the system, institution, or agency determines appropriate.

(c) The procedures established under Subsection (b) must give preference to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property in another manner. If more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the system, institution, or agency shall give preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a taxable wealth per student that entitles the district to an allotment of state funds under Subchapter F, Chapter 42, Education Code, or to the assistance organization designated by such a school district.

(d) A university system or institution or agency of higher education may donate to an assistance organization any surplus or salvage property that:

(1) is not disposed of under Subsection (b); and

(2) has no resale value.

(e) Notwithstanding Subsections (b) and (c), a university system or institution or agency of higher education included within the definition of "state agency" under Section 2151.002 may donate data processing equipment that is surplus or salvage property to a public or private hospital located in a rural county. For purposes of this subsection, "rural county" has the meaning assigned by Section 487.301.

(Enacted by Acts 1999, 76th Leg., ch. 274 (H.B. 3226), § 2, effective September 1, 1999; Enacted by Acts 1999, 76th Leg., ch. 1281 (S.B. 1451), § 2, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 908 (S.B. 912), § 3, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 125 (H.B. 22), § 6, effective May 24, 2005; am. Acts 2011, 82nd Leg., ch. 364 (S.B. 74), § 1, effective June 17, 2011.)

Sec. 2175.305. Exception for Secretary of State.

This chapter does not apply to the disposition of surplus computer equipment by the secretary of state. The secretary of state shall give preference to transferring the property to counties for the purpose of improving voter registration technology and complying with Section 18.063, Election Code.

(Enacted by Acts 2001, 77th Leg., ch. 1178 (H.B. 3181), § 6, effective January 1, 2002.)

Sec. 2175.306. Exception for Certain Agencies.

This chapter does not apply to the disposition of surplus computer equipment by a state agency involved in the areas of health, human services, or education, except for an agency to which Section 2175.304 applies. Those agencies shall give preference to transferring the property to a public school, school district, or assistance organization specified by the school district.

(Enacted by Acts 2003, 78th Leg., ch. 908 (S.B. 912), § 4, effective June 20, 2003.)

Sec. 2175.307. Exception for Office of Court Administration.

This chapter does not apply to the disposition of surplus computer equipment by the Office of Court Administration of the Texas Judicial System. The office shall give preference to transferring the equipment to a local or state governmental entity in the judicial branch of local or state government.

(Enacted by Acts 2007, 80th Leg., ch. 73 (H.B. 368), § 2, effective September 1, 2007.)

SUBCHAPTER G
FEDERAL SURPLUS PROPERTY

Sec. 2175.361. Definitions.

In this subchapter:

(1) "Federal act" means the Federal Property and Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq.), as amended, or any other federal law providing for the disposal of federal surplus property.

(2) "Federal property" means federal surplus property acquired:

(A) by the commission or under the commission's jurisdiction under this subchapter; and

(B) under 40 U.S.C. Section 483c, 549, or 550, or under any other federal law providing for the disposal of federal surplus property.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.33, effective June 18, 2003.)

Sec. 2175.362. Designated Agency; Separate and Independent Operation of Federal Surplus Property Program.

(a) The commission is the designated state agency under 40 U.S.C. Section 549 and any other federal law providing for the disposal of federal surplus property.

(b) Except for the sharing of support functions with other divisions, the federal surplus property program shall operate independently of the rest of the commission.

(c) The administrative offices of the federal surplus property program may be located in a building separate from the location of other commission offices.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 11, effective May 19, 1997; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.34, effective June 18, 2003.)

Sec. 2175.363. Acquisition, Warehousing, and Distribution of Federal Property.

(a) The commission may acquire and warehouse federal property allocated to the commission under the federal act and distribute the property to an entity or institution that meets the eligibility qualifications for the property under the federal act.

(b) The commission shall establish and maintain procedures to implement this section.

(c) The commission is not required to comply with the provisions of this chapter that relate to the disposition of surplus state agency property in acquiring, warehousing, and distributing federal surplus property under this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.364. Commission Assistance in Procurement and Use of Property.

The commission may:

(1) disseminate information and assist a potential applicant regarding the availability of federal real property;

(2) assist in the processing of an application for acquisition of federal real property and related personal property under 40 U.S.C. Section 550 or any other federal law providing for the disposal of federal surplus property;

(3) act as an information clearinghouse for an entity that may be eligible to acquire federal property and, as necessary, assist the entity to obtain federal property;

(4) assist in assuring use of the property; and

(5) engage in an activity relating to the use of federal property by another state agency, institution, or organization engaging in or receiving assistance under a federal program.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.35, effective June 18, 2003.)

Sec. 2175.365. State Plan of Operation; Compliance with Minimum Federal Standards.

The commission shall:

(1) file a state plan of operation that complies with federal law and operate in accordance with the plan;

(2) take necessary action to meet the minimum standards for a state agency in accordance with the federal act; and

(3) cooperate to the fullest extent consistent with this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.366. Administrative Functions; Compliance with Federal Requirements.

The commission may:

(1) make the necessary certifications and undertake necessary action, including an investigation;

(2) make expenditures or reports that may be required by federal law or regulation or that are otherwise necessary to provide for the proper and efficient management of its functions under this subchapter;

(3) provide information and reports relating to its activities under this subchapter that may be required by a federal agency or department; and

(4) adopt rules necessary for the efficient operation of its activities under this subchapter or as may be required by federal law or regulation.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.367. Contracts.

The commission may enter into an agreement, including:

(1) a cooperative agreement with a federal agency under 40 U.S.C. Section 549 or any other federal law providing for the disposal of federal surplus property;

(2) an agreement with a state agency for surplus property of a state agency that will promote the administration of the commission's functions under this subchapter; or

(3) an agreement with a group or association of state agencies for surplus property that will promote the administration of the commission's functions under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 7.36, effective June 18, 2003.)

Sec. 2175.368. Acquisition or Improvement of Property; Rent Payments.

The commission may:

(1) acquire and hold title or make capital improvements to federal real property in accordance with Section 2175.369; or

(2) make an advance payment of rent for a distribution center, an office space, or another facility that is required to accomplish the commission's functions under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.369. Charges.

(a) The commission may collect a service charge for the commission's acquisition, warehousing, distribution, or transfer of federal property.

(b) The commission may not collect a charge for federal real property in an amount that is greater than the reasonable administrative cost the commission incurs in transferring the property.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.370. Federal Surplus Property Service Charge Fund.

(a) The commission shall deposit a charge collected under Section 2175.369 in the state treasury to the credit of the federal surplus property service charge fund.

(b) Income earned on money in the federal surplus property service charge fund shall be credited to that fund.

(c) Money in the federal surplus property service charge fund may be used only to accomplish the commission's functions under this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 12, effective May 19, 1997.)

Sec. 2175.371. Advisory Boards and Committees.

The commission may appoint advisory boards and committees necessary and suitable to administer this subchapter.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.372. Personnel.

(a) The commission may employ, compensate, and prescribe the duties of personnel, other than members of advisory boards and committees, necessary and suitable to administer this subchapter.

(b) The commission may fill a personnel position only with an individual selected and appointed on a nonpartisan merit basis.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 2175.901. Purchase of Chairs by Certain State Officers and Agency Heads.

(a) Notwithstanding other law, on vacating an office or terminating employment, an elected or appointed state officer or an executive head of a state agency in the legislative, executive, or judicial branch of state government may purchase for fair market value the chair used by the officer or employee during the person's period of state service.

(b) The fair market value of a chair shall be determined:

(1) for an executive agency or a legislative agency other than the legislature, by the commission;

(2) for a judicial agency, by the chief justice of the supreme court;

(3) for the house of representatives, by the speaker of the house of representatives; and

(4) for the senate, by the lieutenant governor.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.902. Mandatory Paper Recycling Program.

(a) The commission shall establish a mandatory recycling program for a state agency that occupies a building under its control. By rule, the commission shall:

(1) establish guidelines and procedures for collecting and recycling of paper;

(2) set recycling goals and performance measures;

(3) require state agencies to designate a recycling coordinator;

(4) provide employee and custodial education and training;

(5) provide feedback and recognition to state agencies when appropriate; and

(6) inform state agencies when proper recycling methods are not used.

(b) If the commission finds that a state agency's recycling program meets or exceeds the standards created under Subsection (a), the commission may delegate its responsibility under this section to a state agency located in a building under its control.

(c) The commission or a state agency with delegated responsibility under Subsection (b) shall sell the paper for recycling to the highest bidder.

(d) The commission may enter into an interagency agreement to provide recycling services to a state agency otherwise excluded from the program.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 127 (S.B. 833), § 13, effective May 19, 1997; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 12.01, effective September 1, 2001.)

Sec. 2175.903. Property Used As Trade-In.

A state agency may offer surplus or salvage property as a trade-in on new property of the same general type if the exchange is in the state's best interests.

(Enacted by Acts 1995, 74th Leg., ch. 41 (S.B. 958), § 1, effective September 1, 1995.)

Sec. 2175.904. Disposal of Gambling Equipment.

(a) The commission shall establish a program for the sale of gambling equipment received from a municipality, from a commissioners court under Section 263.152(a)(5), Local Government Code, or from a state agency under this chapter.

(b) The commission may sell gambling equipment only to a person that the commission determines is a bona fide holder of a license or other authorization to sell, lease, or otherwise provide gambling equipment to others or to operate gambling equipment issued by an agency in another state or in a foreign jurisdiction where it is lawful for the person to possess gambling equipment for the intended purpose.

(c) Proceeds from the sale of gambling equipment from a municipality or commissioners court, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188, shall be divided according to an agreement between the commission and the municipality or commissioners court that provided the equipment for sale. The agreement must provide that:

(1) not less than 50 percent of the net proceeds be remitted to the commissioners court; and

(2) the remainder of the net proceeds retained by the commission be deposited to the credit of the general revenue fund.

(d) Proceeds from the sale of gambling equipment from a state agency, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

(Enacted by Acts 2007, 80th Leg., ch. 1233 (H.B. 2462), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.15, effective September 28, 2011.)

Sec. 2175.905. [Expires September 1, 2015] Disposition of Data Processing Equipment.

(a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.184, the state agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(c) The state eleemosynary institution or institution or agency of higher education or other state

agency may not collect a fee or other reimbursement from the district, the school, the assistance organization, or the Texas Department of Criminal Justice for the surplus or salvage data processing equipment transferred under this section.

(d) An assistance organization may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of data processing equipment acquired under this section. The assistance organization may dispose of the equipment only by transferring the equipment to the school district that specified the assistance organization for transfer under this section.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.16, effective September 28, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 22, effective June 14, 2013.)

Sec. 2175.906. Abolished Agencies.

On abolition of a state agency, in accordance with Chapter 325, the commission shall take custody of all of the agency's property or other assets as surplus property unless other law or the legislature designates another appropriate governmental entity to take custody of the property or assets.

(Enacted by Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 29.16, effective September 28, 2011.)

SUBTITLE F
STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2251
PAYMENT FOR GOODS AND SERVICES

Subchapter A. General Provisions

Subchapter B. Payments and Interest

Subchapter C. Claims and Disputes

Subchapter D. Remedy for Nonpayment

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2251.001. Definitions.

Except as otherwise provided by this chapter, in this chapter:

(1) "Distribution date" means:

(A) if no payment law prohibits the comptroller from issuing a warrant, the date the comptroller makes the warrant available:

(i) for mailing directly to its payee under Section 2155.382(c); or

(ii) to the state agency that requested issuance of the warrant;

(B) if no payment law prohibits the comptroller from initiating an electronic funds transfer, the date the comptroller initiates the transfer;

(C) if a payment law prohibits the comptroller from issuing a warrant, the date the comptroller would have made the warrant available, in the absence of the payment law:

(i) for mailing directly to its payee under Section 2155.382(c); or

(ii) to the state agency that requested issuance of the warrant; or

(D) if a payment law prohibits the comptroller from initiating an electronic funds transfer, the date the comptroller would have made the warrant prepared under Section 403.0552(b) available, in the absence of the payment law:

(i) for mailing directly to its payee under Section 2155.382(c); or

(ii) to the state agency that requested initiation of the transfer.

(2) "Goods" includes supplies, materials, or equipment.

(3) "Governmental entity" means a state agency or political subdivision of this state.

(4) "Payment" means money owed to a vendor.

(5) "Payment law" means:

(A) Section 57.48 or 57.482, Education Code;

(B) Section 231.007, Family Code;

(C) Section 403.055 or 2107.008; or

(D) any similar statute.

(6) "Political subdivision" means:

(A) a county;

(B) a municipality;

(C) a public school district; or

(D) a special-purpose district or authority.

(7) "Service" includes gas and water utility service.

(8) "State agency" means:

(A) a board, commission, department, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including a river authority and an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, a state judicial agency, or the State Bar of Texas.

(9) "Subcontractor" means a person who contracts with a vendor to work or contribute toward completing work for a governmental entity. The term does not include a state agency. The term includes an officer or employee of a state agency when the officer or employee contracts with a vendor in a private capacity.

(10) "Vendor" means a person who supplies goods or a service to a governmental entity or another person directed by the entity. The term does not include a state agency, except for Texas Correctional Industries. The term includes an officer or employee of a state agency when acting in a private capacity to supply goods or a service.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.40(a), effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1188 (S.B. 365), § 1.41, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 60, effective June 15, 2001.)

Sec. 2251.002. Exceptions.

(a) Except as provided by Subchapter D, Subchapter B does not apply to a payment made by a governmental entity, vendor, or subcontractor if:

(1) there is a bona fide dispute between the political subdivision and a vendor, contractor, subcontractor, or supplier about the goods delivered or the service performed that causes the payment to be late;

(2) there is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late;

(3) the terms of a federal contract, grant, regulation, or statute prevent the governmental entity from making a timely payment with federal funds; or

(4) the invoice is not mailed to the person to whom it is addressed in strict accordance with any instruction on the purchase order relating to the payment.

(b) This chapter does not affect Chapter 2253.

(c) [Repealed by Acts 2001, 77th Leg., ch. 1158, § 94(4), effective June 15, 2001.]

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.41(a), effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), §§ 61, 94(4), effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 1, effective September 1, 2003.)

Sec. 2251.003. Rules.

The comptroller shall establish procedures and adopt rules to administer this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 62, effective June 15, 2001; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.73, effective September 1, 2007.)

Sec. 2251.004. Waiver.

A person may not waive any right or remedy granted by this chapter. A purported waiver of any right or remedy granted by this chapter is void.

(Enacted by Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 2, effective September 1, 2003.)

SUBCHAPTER B
PAYMENTS AND INTEREST

Sec. 2251.021. Time for Payment by Governmental Entity.

(a) Except as provided by Subsection (b), a payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of:

(1) the date the governmental entity receives the goods under the contract;

(2) the date the performance of the service under the contract is completed; or

(3) the date the governmental entity receives an invoice for the goods or service.

(b) A payment under a contract executed on or after September 1, 1993, owed by a political subdivision whose governing body meets only once a

month or less frequently is overdue on the 46th day after the later event described by Subsections (a)(1) through (3).

(c) For a contract executed on or after July 1, 1986, and before September 1, 1987, a payment by a governmental entity under that contract is overdue on the 46th day after the later event described by Subsections (a)(1) through (3).

(d) For purposes of this section, the renewal, amendment, or extension of a contract executed on or before September 1, 1993, is considered to be the execution of a new contract.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.42(a), effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 63, effective June 15, 2001.)

Sec. 2251.022. Time for Payment by Vendor.

(a) A vendor who receives a payment from a governmental entity shall pay a subcontractor the appropriate share of the payment not later than the 10th day after the date the vendor receives the payment.

(b) The appropriate share is overdue on the 11th day after the date the vendor receives the payment.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.023. Time for Payment by Subcontractor.

(a) A subcontractor who receives a payment from a vendor shall pay a person who supplies goods or a service for which the payment is made the appropriate share of the payment not later than the 10th day after the date the subcontractor receives the payment.

(b) The appropriate share is overdue on the 11th day after the date the subcontractor receives the payment.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.024. Mailing of Payment.

A payment is considered to be mailed on the date the payment is postmarked.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.025. Interest on Overdue Payment.

(a) A payment begins to accrue interest on the date the payment becomes overdue.

(b) The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of:

(1) one percent; and

(2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

(c) Interest on an overdue payment stops accruing on the date the governmental entity or vendor mails or electronically transmits the payment. In this subsection, "governmental entity" does not include a state agency.

(d) This subsection applies only if the comptroller is not responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount owed by a state agency to a vendor. The accrual of interest on an overdue payment to the vendor:

(1) stops on the date the agency mails or electronically transmits the payment; and

(2) is not suspended during any period that a payment law prohibits the agency from paying the vendor.

(e) This subsection applies only if the comptroller is responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount owed by a state agency to a vendor. Interest on an overdue payment to the vendor:

(1) stops accruing on its distribution date; and

(2) does not stop accruing during any period that a payment law prohibits the comptroller from issuing the warrant or initiating the transfer.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), §§ 64—66(a), , effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 67(a), effective March 1, 2002; am. Acts 2003, 78th Leg., ch. 1310 (H.B. 2425), § 61, effective July 1, 2004.)

Sec. 2251.026. Payment of Interest by State Agency.

(a) A state agency is liable for any interest that accrues on an overdue payment under this chapter and shall pay the interest from funds appropriated or otherwise available to the agency at the same time the principal is paid.

(b) The comptroller shall issue a warrant or initiate an electronic funds transfer on behalf of a state agency to pay any interest that the agency must pay under Subsection (a) if the comptroller is responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount on behalf of the agency.

(c) The comptroller shall determine the amount of interest that accrues on an overdue payment by a state agency under this chapter if the comptroller is responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount on behalf of the agency.

(d) A state agency shall determine the amount of interest that accrues on an overdue payment by the agency under this chapter if the comptroller is not responsible for issuing a warrant or initiating an electronic funds transfer to pay the principal amount on behalf of the agency.

(e) The comptroller or state agency shall submit the interest payment with the net amount due for the goods or services.

(f) Neither the comptroller nor a state agency may require a vendor to request payment of the interest that accrues under this chapter before the interest is paid to the vendor.

(g) The comptroller may require a state agency to submit any information the comptroller determines necessary to administer and comply with Subsections (b) and (c). The information must be submitted at the time and in the manner required by the comptroller.

(h) The comptroller may require a state agency to change its accounting systems or procedure as the comptroller determines necessary to administer and comply with Subsections (b) and (c). Any changes must conform with the comptroller's requirements.

(i) The comptroller may establish procedures and adopt rules to administer Subsections (b), (c), (g), and (h).

(j) No interest accrues or may be paid under this section on a payment if the total amount of interest that would otherwise have accrued is equal to or less than $5 and the payment is made from the institutional funds of an institution of higher education as defined by Section 61.003, Education Code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 634 (H.B. 1209), § 3(a), effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 118 (H.B. 1545), § 3.03, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 68, effective June 15, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(85), effective September 1, 2003.)

Sec. 2251.027. Payment of Interest by Political Subdivision.

(a) A political subdivision shall compute interest imposed on the political subdivision under this chapter.

(b) The political subdivision shall pay the interest at the time payment is made on the principal.

(c) The political subdivision shall submit the interest payment with the net amount due for the goods or service.

(d) The political subdivision may not require a vendor to petition, bill, or wait an additional day to receive the interest due.

(e) The political subdivision may not require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest under this chapter as a condition of the contract between the parties.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1254 (H.B. 2506), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 69, effective June 15, 2001.)

Sec. 2251.028. Payment of Interest by Vendor or Subcontractor.

A vendor or subcontractor shall pay interest as a payment is overdue.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.029. Partial Payment.

(a) The unpaid balance of a partial payment made within the period provided by this chapter accrues interest as provided by Section 2251.025 unless the balance is in dispute.

(b) Section 2251.042 applies to a disputed balance.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.030. Prompt or Early Payment Discount.

(a) The intent of the legislature is that a governmental entity should take advantage of an offer for an early payment discount. A state agency shall when possible negotiate a prompt payment discount with a vendor.

(b) A governmental entity may not take an early payment discount a vendor offers unless the governmental entity makes a full payment within the discount period.

(c) If a governmental entity takes an early payment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires.

(d) A state agency, when paying for the goods or service purchased under an agreement that includes a prompt or early payment discount, shall submit the necessary payment documents or information to the comptroller sufficiently in advance of the prompt or early payment deadline to allow the comptroller

or the agency to pay the vendor in time to obtain the discount.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.35, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1158 (H.B. 2914), § 70, effective June 15, 2001.)

SUBCHAPTER C
CLAIMS AND DISPUTES

Sec. 2251.041. Claim for Interest Imposed Against State Agency [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 634 (H.B. 1209), § 4(a), effective September 1, 1999.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.042. Disputed Payment.

(a) A governmental entity shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice.

(b) If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date under Section 2251.021 that the payment for the invoice is overdue.

(c) If a dispute is resolved in favor of the governmental entity, the vendor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest as provided by this chapter if the corrected invoice is not paid by the appropriate date.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2251.043. Attorney Fees.

In a formal administrative or judicial action to collect an invoice payment or interest due under this chapter, the opposing party, which may be the governmental entity or the vendor, shall pay the reasonable attorney fees of the prevailing party.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

SUBCHAPTER D
REMEDY FOR NONPAYMENT

Sec. 2251.051. Vendor Remedy for Nonpayment of Contract.

(a) A vendor may suspend performance required under a contract with a governmental entity if:

(1) the governmental entity does not pay the vendor an undisputed amount within the time limits provided by Subchapter B; and

(2) the vendor gives the governmental entity written notice:

(A) informing the governmental entity that payment has not been received; and

(B) stating the intent of the vendor to suspend performance for nonpayment.

(b) The vendor may not suspend performance under this section before the later of:

(1) the 10th day after the date the vendor gives notice under Subsection (a); or

(2) the day specified by Section 2251.053(b).

(c) A vendor who suspends performance under this section is not:

(1) required to supply further labor, services, or materials until the vendor is paid the amount provided for under this chapter, plus costs for demobilization and remobilization; or

(2) responsible for damages resulting from suspending work if the governmental entity with which the vendor has the contract has not notified the vendor in writing before performance is suspended that payment has been made or that a bona fide dispute for payment exists.

(d) A notification under Subsection (c)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the vendor or the vendor's subcontractor are not provided in compliance with the contract, the vendor is entitled to a reasonable opportunity to:

(1) cure the noncompliance of the listed items; or

(2) offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

(Enacted by Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 3, effective September 1, 2003.)

Sec. 2251.052. Subcontractor Remedy for Vendor's Nonpayment of Contract.

(a) A subcontractor of a vendor under a contract with a governmental entity may suspend performance required under the contract with the vendor if:

(1) the governmental entity with whom the subcontractor's vendor has a contract does not pay the vendor an undisputed amount within the time limits provided by Subchapter B; or

(2) the governmental entity with whom the subcontractor's vendor has a contract has paid the vendor undisputed amounts and the vendor does not pay the subcontractor an undisputed amount within the time limits provided by Subchapter B.

(b) A subcontractor who suspends performance under Subsection (a) must give the vendor written notice, a copy of which the subcontractor may provide the governmental entity with whom the vendor has a contract:

(1) informing the vendor that payment has not been received; and

(2) stating the intent of the subcontractor to suspend performance for nonpayment.

(c) The subcontractor may not suspend performance under this section before the later of:

(1) the 10th day after the date the subcontractor gives notice under Subsection (b); or

(2) the date specified by Section 2251.053(b), if applicable.

(d) A subcontractor who suspends performance under this section is not:

(1) required to supply further labor, services, or materials until the subcontractor is paid the amount provided for under the contract, plus costs for demobilization and remobilization; or

(2) responsible for damages resulting from suspending work if the vendor has not notified the subcontractor in writing before performance is suspended that payment has been made or the governmental entity has notified the vendor that a bona fide dispute for payment exists.

(e) A notification under Subsection (d)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the subcontractor are not provided in compliance with the contract, the subcontractor is entitled to a reasonable opportunity to:

(1) cure the noncompliance of the listed items; or

(2) offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

(Enacted by Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 3, effective September 1, 2003.)

Sec. 2251.053. Highway-Related Contracts.

(a) This section applies only to a contract entered into by the Texas Department of Transportation for the construction or maintenance of a highway or a related facility.

(b) A vendor or subcontractor may not suspend performance under Section 2251.051 or 2251.052 before the 20th day after the date:

(1) the vendor gives written notice under Section 2251.051(a); or

(2) the subcontractor gives written notice under Section 2251.052(b).

(c) A notice required under this subchapter and relating to a contract described by Subsection (a) must be sent by certified mail to:

(1) the executive director of the Texas Department of Transportation;

(2) the director of construction of the Texas Department of Transportation; or

(3) the person designated in the contract as the person to whom notices must be sent.

(Enacted by Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 3, effective September 1, 2003.)

Sec. 2251.054. Notices.

(a) This section applies only to a notice or other written communication required by this subchapter.

(b) A notice or other written communication to a governmental entity must be delivered to:

(1) the person designated in the contract as the person to whom a notice or other written communication must be sent; or

(2) if the contract does not designate a person to whom a notice or other written communication must be sent, the executive director or chief administrative officer of the governmental entity.

(c) Any notice or other written communication may be personally delivered to a person described by Subsection (b) or the person's agent, regardless of any other manner of delivery prescribed by law.

(d) If a notice or other written communication is sent by certified mail, the notice is effective on the date the notice or other written communication is deposited in the United States mail.

(e) If a notice or other written communication is sent by electronic means, the notice or other written communication is effective on the date the person designated or entitled to receive the notice or other written communication receives the notice or other written communication.

(f) If a notice or other written communication is received by the person designated or entitled to receive the notice or other written communication, the method of delivery of the notice or other written communication is immaterial.

(Enacted by Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 3, effective September 1, 2003.)

Sec. 2251.055. Rights and Remedies Not Exclusive.

The rights and remedies provided by this subchapter are in addition to rights and remedies provided by this chapter or other law.

(Enacted by Acts 2003, 78th Leg., ch. 286 (H.B. 2397), § 3, effective September 1, 2003.)

CHAPTER 2252
CONTRACTS WITH GOVERNMENTAL ENTITY

Subchapter A. Nonresident Bidders

Section

Subchapter B. Interest on Retained Public Works Contract Payments

SUBCHAPTER A
NONRESIDENT BIDDERS

Sec. 2252.001. Definitions.

In this subchapter:

(1) "Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

(2) "Governmental entity" means:

(A) the state;

(B) a municipality, county, public school district, or special-purpose district or authority;

(C) a district, county, or justice of the peace court;

(D) a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education as defined by Section 61.003, Education Code;

(E) the legislature or a legislative agency; or

(F) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or the State Bar of Texas or another judicial agency having statewide jurisdiction.

(3) "Nonresident bidder" refers to a person who is not a resident.

(4) "Resident bidder" refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2252.002. [2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1127] Award of Contract to Nonresident Bidder.

A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in:

(1) the state in which the nonresident's principal place of business is located; or

(2) a state in which the nonresident is a resident manufacturer.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 9 provides: "The changes in law made by this Act to Sections 791.011 and 2252.002, Government Code, and Section 49.273(i), Water Code, apply only to a contract made on or after the effective date of this Act [September 1, 2013]."

Sec. 2252.002. [2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1404] Award of Contract to Nonresident Bidder.

A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the following:

(1) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located; or

(2) the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 1404 (H.B. 3648), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1404 (H.B. 3648), § 4(b) provides: "Section 2252.002, Government Code, as amended by this Act, applies only to the award of a governmental contract to a nonresident bidder on or after the effective date of this Act [June 14, 2013]. The award of a governmental contract to a nonresident bidder made before the effective date of this Act is governed by the

law in effect at the time the contract was awarded, and the former law is continued in effect for that purpose."

Sec. 2252.003. Publication of Other States' Laws on Contracts.

(a) The comptroller annually shall publish in the Texas Register:

(1) a list showing each state that regulates the award of a governmental contract to a bidder whose principal place of business is not located in that state; and

(2) the citation to and a summary of each state's most recent law or regulation relating to the evaluation of a bid from and award of a contract to a bidder whose principal place of business is not located in that state.

(b) A governmental entity shall use the information published under this section to evaluate the bid of a nonresident bidder. A governmental entity may rely on information published under this section to meet the requirements of Section 2252.002.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 15, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.74, effective September 1, 2007.)

Sec. 2252.004. Contract Involving Federal Funds.

This subchapter does not apply to a contract involving federal funds.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 9.011, effective September 1, 2001.)

SUBCHAPTER B
INTEREST ON RETAINED PUBLIC WORKS CONTRACT PAYMENTS

Sec. 2252.031. Definitions.

In this subchapter:

(1) "Governmental entity" means:

(A) the state, a county, or a municipality;

(B) a department, board, or agency of the state, a county, or a municipality;

(C) a school district or a subdivision of a school district; or

(D) any other governmental or quasi-governmental authority authorized by statute to make a public works contract.

(2) "Prime contractor" means a person or persons, firm, or corporation contracting with a governmental entity for a public work.

(3) "Public works" includes the construction, alteration, or repair of a public building or the construction or completion of a public work.

(4) "Public works contract payment" means a payment by a governmental entity for the value of labor, material, machinery, fixtures, tools, power, water, fuel, or lubricants used or consumed, ordered and delivered for use or consumption, or specially fabricated for use or consumption but not yet delivered, in the direct performance of a public works contract.

(5) "Retainage" means the part of a public works contract payment withheld by a governmental entity to secure performance of the contract.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2252.032. Retainage.

A governmental entity shall:

(1) deposit in an interest-bearing account the retainage of a public works contract that provides for retainage of more than five percent of the periodic contract payment; and

(2) pay the interest earned on the retainage to the prime contractor on completion of the contract.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2252.033. Exemptions.

This subchapter does not apply to:

(1) a public works contract executed before August 31, 1981;

(2) a public works contract in which the total contract price estimate at the time of execution of the contract is less than $400,000; or

(3) a public works contract made by the Texas Department of Transportation under Subchapter A, Chapter 223, Transportation Code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.201, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 9.012, effective September 1, 2001.)

CHAPTER 2253
PUBLIC WORK PERFORMANCE AND PAYMENT BONDS

Subchapter A. General Provisions

Subchapter B. General Requirements; Liability

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2253.001. Definitions.

In this chapter:

(1) "Governmental entity" means a governmental or quasi-governmental authority authorized by state law to make a public work contract, including:

(A) the state, a county, or a municipality;

(B) a department, board, or agency of the state, a county, or a municipality; and

(C) a school district or a subdivision of a school district.

(2) "Payment bond beneficiary" means a person for whose protection and use this chapter requires a payment bond.

(3) "Prime contractor" means a person, firm, or corporation that makes a public work contract with a governmental entity.

(4) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

(5) "Public work labor" means labor used directly to carry out a public work.

(6) "Public work material" means:

(A) material used, or ordered and delivered for use, directly to carry out a public work;

(B) specially fabricated material;

(C) reasonable rental and actual running repair costs for construction equipment used, or reasonably required and delivered for use, directly to carry out work at the project site; or

(D) power, water, fuel, and lubricants used, or ordered and delivered for use, directly to carry out a public work.

(7) "Retainage" means the part of the payments under a public work contract that are not required to be paid within the month after the month in which the public work labor is performed or public work material is delivered under the contract.

(8) "Specially fabricated material" means material ordered by a prime contractor or subcontractor that is:

(A) specially fabricated for use in a public work; and

(B) reasonably unsuitable for another use.

(9) "Subcontractor" means a person, firm, or corporation that provides public work labor or material to fulfill an obligation to a prime contractor or to a subcontractor for the performance and installation of any of the work required by a public work contract.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.20, effective September 1, 1999.)

Sec. 2253.002. Exemption.

This chapter does not apply to a public work contract entered into by a state agency relating to an action taken under Subchapter F or I, Chapter 361, Health and Safety Code, or Subchapter I, Chapter 26, Water Code.

(Enacted by Acts 1997, 75th Leg., ch. 793 (H.B. 2776), § 18, effective September 1, 1997.)

SUBCHAPTER B
GENERAL REQUIREMENTS; LIABILITY

Sec. 2253.021. Performance and Payment Bonds Required.

(a) A governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity:

(1) a performance bond if the contract is in excess of $100,000; and

(2) a payment bond if:

(A) the contract is in excess of $25,000, and the governmental entity is not a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code; or

(B) the contract is in excess of $50,000, and the governmental entity is a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code.

(b) The performance bond is:

(1) solely for the protection of the state or governmental entity awarding the public work contract;

(2) in the amount of the contract; and

(3) conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents.

(c) The payment bond is:

(1) solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material; and

(2) in the amount of the contract.

(d) A bond required by this section must be executed by a corporate surety in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon's Texas Insurance Code).

(e) A bond executed for a public work contract with the state or a department, board, or agency of the state must be payable to the state and its form must be approved by the attorney general. A bond executed for a public work contract with another governmental entity must be payable to and its form must be approved by the awarding governmental entity.

(f) A bond required under this section must clearly and prominently display on the bond or on an attachment to the bond:

(1) the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent; or

(2) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free telephone number.

(g) A governmental entity may not require a contractor for any public building or other construction contract to obtain a surety bond from any specific insurance or surety company, agent, or broker.

(h) A reverse auction procedure may not be used to obtain services related to a public work contract for which a bond is required under this section. In this subsection, "reverse auction procedure" has the meaning assigned by Section 2155.062 or a procedure similar to that described by Section 2155.062. (Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.43(a), effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 380 (H.B. 409), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 614 (S.B. 1268), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1275 (H.B. 3506), § 2(86), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 11.122, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1304 (H.B. 2515), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 1.01, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1304 (H.B. 2515), § 4 provides: "The changes in law made by this Act to Section 2253.021(a), Government Code, apply only to a contract entered into on or after the effective date of this Act [September 1, 2009]. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2253.022. Performance and Payment Bonds; Insured Loss.

(a) A governmental entity shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor, in accordance with this chapter:

(1) a performance bond as described by Section 2253.021(b) for the benefit of the governmental entity; and

(2) a payment bond as described in Section 2253.021(c) for the benefit of the beneficiaries described by that subsection.

(b) The bonds required to be furnished under Subsection (a) must be furnished before the contractor begins work.

(c) It is an implied obligation under a contract of insurance for the insurance company to furnish the bonds required by this section.

(d) To recover in a suit with respect to which the insurance company has furnished or caused to be furnished a payment bond, the only notice required of a payment bond beneficiary is the notice given to the surety in accordance with Subchapter C.

(e) This section does not apply to a governmental entity when a surety company is complying with an obligation under a bond that had been issued for the benefit of the governmental entity.

(f) If the payment bond required by Subsection (a) is not furnished, the governmental entity is subject to the same liability that a surety would have if the surety had issued the payment bond and the governmental entity had required the bond to be provided. To recover in a suit under this subsection, the only notice required of a payment bond beneficiary is a notice given to the governmental entity, as if the governmental entity were the surety, in accordance with Subchapter C.

(Enacted by Acts 1997, 75th Leg., ch. 1132, effective September 1, 1997.)

Sec. 2253.023. Attempted Compliance.

(a) A bond furnished by a prime contractor in an attempt to comply with this chapter shall be construed to comply with this chapter regarding the rights created, limitations on those rights, and remedies provided.

(b) A provision in a bond furnished by a prime contractor in an attempt to comply with this chapter that expands or restricts a right or liability under this chapter shall be disregarded, and this chapter shall apply to that bond.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.024. Information from Contractor or Subcontractor.

(a) A prime contractor, on the written request of a person who provides public work labor or material and when required by Subsection (c), shall provide to the person:

(1) the name and last known address of the governmental entity with whom the prime contractor contracted for the public work;

(2) a copy of the payment and performance bonds for the public work, including bonds furnished by or to the prime contractor; and

(3) the name of the surety issuing the payment bond and the performance bond and the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance companies.

(b) A subcontractor, on the written request of a governmental entity, the prime contractor, a surety on a bond that covers the public work contract, or a person providing work under the subcontract and when required by Subsection (c), shall provide to the person requesting the information:

(1) the name and last known address of each person from whom the subcontractor purchased public work labor or material, other than public work material from the subcontractor's inventory;

(2) the name and last known address of each person to whom the subcontractor provided public work labor or material;

(3) a statement of whether the subcontractor furnished a bond for the benefit of its subcontractors and materialmen;

(4) the name and last known address of the surety on the bond the subcontractor furnished; and

(5) a copy of that bond.

(c) Information requested shall be provided within a reasonable time but not later than the 10th day after the receipt of the written request for the information.

(d) A person from whom information is requested may require payment of the actual cost, not to exceed $25, for providing the requested information if the person does not have a direct contractual relationship with the person requesting information that relates to the public work.

(e) A person who fails to provide information required by this section is liable to the requesting person for that person's reasonable and necessary costs incurred in getting the requested information.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 380 (H.B. 409), § 2, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 11.123, effective September 1, 2005.)

Sec. 2253.025. Information from Payment Bond Beneficiary.

(a) A payment bond beneficiary, not later than the 30th day after the date the beneficiary receives a written request from the prime contractor or a surety on a bond on which a claim is made, shall provide to the contractor or surety:

(1) a copy of any applicable written agreement or purchase order; and

(2) any statement or payment request of the beneficiary that shows the amount claimed and the work performed by the beneficiary for which the claim is made.

(b) If requested, the payment bond beneficiary shall provide the estimated amount due for each calendar month in which the beneficiary performed public work labor or provided public work material.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.026. Copy of Payment Bond and Contract.

(a) A governmental entity shall furnish the information required by Subsection (d) to any person who applies for the information and who submits an affidavit that the person:

(1) has supplied public work labor or material for which the person has not been paid;

(2) has contracted for specially fabricated material for which the person has not been paid; or

(3) is being sued on a payment bond.

(b) The copy of the payment bond or public work contract is prima facie evidence of the content, execution, and delivery of the original.

(c) An applicant under this section shall pay any reasonable fee set by the governmental entity for the actual cost of preparation of the copies.

(d) A governmental entity shall furnish the following information to a person who makes a request under Subsection (a):

(1) a certified copy of a payment bond and any attachment to the bond;

(2) the public work contract for which the bond was given; and

(3) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance companies.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 380 (H.B. 409), § 3, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 11.124, effective September 1, 2005.)

Sec. 2253.027. Liability of Governmental Entity.

(a) If a governmental entity fails to obtain from a prime contractor a payment bond as required by Section 2253.021:

(1) the entity is subject to the same liability that a surety would have if the surety had issued a payment bond and if the entity had obtained the bond; and

(2) a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the public work contract were subject to Subchapter J, Chapter 53, Property Code.

(b) To recover in a suit under Subsection (a), the only notice a payment bond beneficiary is required to provide to the governmental entity is a notice provided in the same manner as described by Subchapter C. The notice must be provided as if the governmental entity were a surety.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 515 (H.B. 1171), § 1, effective September 1, 2003.)

SUBCHAPTER C
NOTICE REQUIREMENTS

Sec. 2253.041. Notice Required for Claim for Payment for Labor or Material.

(a) To recover in a suit under Section 2253.073 on a payment bond for a claim for payment for public work labor performed or public work material delivered, a payment bond beneficiary must mail to the prime contractor and the surety written notice of the claim.

(b) The notice must be mailed on or before the 15th day of the third month after each month in which any of the claimed labor was performed or any of the claimed material was delivered.

(c) The notice must be accompanied by a sworn statement of account that states in substance:

(1) the amount claimed is just and correct; and

(2) all just and lawful offsets, payments, and credits known to the affiant have been allowed.

(d) The statement of account shall include the amount of any retainage applicable to the account that has not become due under the terms of the public work contract between the payment bond beneficiary and the prime contractor or between the payment bond beneficiary and a subcontractor.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.042. Copy of Agreement As Notice of Claim for Unpaid Labor or Material.

A payment bond beneficiary has the option to enclose with the sworn statement of account, as the notice for a claim under a written agreement for payment for public work labor performed or public work material delivered, a copy of the written agreement and a statement of the completion or the value of partial completion of the agreement.
(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.043. Notice of Claim for Unpaid Labor or Material When Written

Agreement Does Not Exist.

(a) Except as provided by Section 2253.044, if a written agreement does not exist between the payment bond beneficiary and the prime contractor or between the payment bond beneficiary and the subcontractor, the notice for a claim for unpaid bills must contain:

(1) the name of the party for whom the public work labor was performed or to whom the public work material was delivered;

(2) the approximate date of performance or delivery;

(3) a description of the public work labor or material for reasonable identification; and

(4) the amount due.

(b) The payment bond beneficiary must generally itemize the claim and include with it copies of documents, invoices, or orders that reasonably identify:

(1) the public work labor performed or public work material delivered for which the claim is made;

(2) the job; and

(3) the destination of delivery.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.044. Notice of Claim for Multiple Items of Labor or Material.

The notice for a claim for lump-sum payment for multiple items of public work labor or material must:

(1) describe the labor or material in a manner that reasonably identifies the labor or material;

(2) state the name of the party for whom the labor was performed or to whom the material was delivered;

(3) state the approximate date of performance or delivery;

(4) state whether the contract is written or oral;

(5) state the amount of the contract; and

(6) state the amount claimed.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.045. Notice of Claim for Unpaid Labor or Material Under Written Unit Price Agreement.

The notice for a claim for public work labor performed or public work material delivered by a payment bond beneficiary who is a subcontractor or materialman to the prime contractor or to a subcontractor and who has a written unit price agreement that is wholly or partially completed is sufficient if the beneficiary attaches to the sworn statement of account:

(1) a list of units and unit prices set by the contract; and

(2) a statement of those completed and partially completed units.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.046. Notice Required for Claim for Payment of Retainage.

(a) To recover in a suit under Section 2253.073 on a payment bond for a claim for payment of retainage, a payment bond beneficiary whose contract with a prime contractor or subcontractor provides for retainage must mail written notice of the claim to the prime contractor and the surety on or before the 90th day after the date of final completion of the public work contract.

(b) The notice shall consist of a statement of:

(1) the amount of the contract;

(2) any amount paid; and

(3) the outstanding balance.

(c) Notice of a claim for payment of retainage is not required if the amount claimed is part of a prior claim made under this subchapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.047. Additional Notice Required for Payment Bond Beneficiary Without Direct Contractual Relationship with Prime Contractor.

(a) To recover in a suit under Section 2253.073 on a payment bond, a payment bond beneficiary who does not have a direct contractual relationship with the prime contractor for public work labor or material must mail notice as required by this section.

(b) A payment bond beneficiary who contracts with a subcontractor for retainage must mail, on or before the 15th day of the second month after the date of the beginning of the delivery of public work material or the performance of public work labor, written notice to the prime contractor that:

(1) the contract provides for retainage; and

(2) generally indicates the nature of the retainage.

(c) The payment bond beneficiary must mail to the prime contractor written notice of a claim for any unpaid public work labor performed or public work material delivered. The notice must be mailed on or before the 15th day of the second month after each month in which the labor was performed or the material was delivered. A copy of the statement sent to a subcontractor is sufficient as notice under this subsection.

(d) The payment bond beneficiary must mail to the prime contractor, on or before the 15th day of the

second month after the receipt and acceptance of an order for specially fabricated material, written notice that the order has been received and accepted.

(e) This section applies only to a payment bond beneficiary who is not an individual mechanic or laborer and who makes a claim for wages.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.048. Mailing Notice.

(a) A notice required by this subchapter to be mailed must be sent by certified or registered mail.

(b) A notice required by this subchapter to be mailed to a prime contractor must be addressed to the prime contractor at the contractor's residence or last known business address.

(c) A person satisfies the requirements of this subchapter relating to providing notice to the surety if the person mails the notice by certified or registered mail to the surety:

(1) at the address stated on the bond or on an attachment to the bond;

(2) at the address on file with the Texas Department of Insurance; or

(3) at any other address allowed by law.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 380 (H.B. 409), § 4, effective September 1, 2001.)

SUBCHAPTER D
CLAIMS ON BONDS; ENFORCEMENT

Sec. 2253.071. Termination or Abandonment of Contract; Proceeds of Contract.

(a) The proceeds of a public work contract are not payable, until all costs of completion of the contract work are paid by the contractor or the contractor's surety, to a contractor who furnishes a bond required by this chapter if:

(1) the contractor abandons performance of the contract; or

(2) the contractor's right to proceed with performance of the contract is lawfully terminated by the awarding governmental entity because of the contractor's default.

(b) The balance of the public work contract proceeds remaining after the costs of completion are paid shall be paid according to the contractor's and the surety's interests as may be established by agreement or by judgment of a court.

(c) A surety that completes a public work contract or incurs a loss under a performance bond required under this chapter has a claim to the proceeds of the contract prior to all other creditors of the prime contractor to the full extent of the surety's loss. That priority does not excuse the surety from paying an obligation under a payment bond.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.072. State Not Liable for Costs.

The state is not liable for payment of a cost or expense of a suit brought by any party on a payment bond furnished under this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.073. Suit on Payment Bond.

(a) A payment bond beneficiary who has provided public work labor or material under a public work contract for which a payment bond is furnished under this chapter may sue the principal or surety, jointly or severally, on the payment bond if the claim is not paid before the 61st day after the date the notice for the claim is mailed.

(b) Suit may be brought under Subsection (a) for:

(1) the unpaid balance of the beneficiary's claim at the time the claim was mailed or the suit is brought; and

(2) reasonable attorney fees.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.074. Costs and Attorney Fees.

A court may award costs and reasonable attorney fees that are equitable in a proceeding to enforce a claim on a payment bond or to declare that any part of a claim is invalid.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.075. Assignment of Claim.

A third party to whom a claim is assigned is in the same position as a payment bond beneficiary if notice is given as required by this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.076. Limitations on Certain Claims; Maximum Retainage.

(a) The amount of a subcontractor's claim, including previous payments, may not exceed the proportion of the subcontract price that the work done bears to the total of the work covered by the subcontract.

(b) A claim for specially fabricated material that has not been delivered or incorporated into the public work is limited to material that conforms to

and complies with the plans, specifications, and contract documents for the material. The amount of the claim may not exceed the reasonable cost, less the fair salvage value, of the specially fabricated material.

(c) A claim for retainage in a notice under this subchapter is not valid for an amount greater than the amount of retainage specified in the public work contract between the payment bond beneficiary and the prime contractor or between the payment bond beneficiary and the subcontractor. A claim for retainage is never valid for an amount greater than 10 percent of the amount of that contract.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.077. Venue.

A suit under this chapter shall be brought in a court in a county in which any part of the public work is located.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.078. Statute of Limitations.

(a) A suit on a performance bond may not be brought after the first anniversary of the date of final completion, abandonment, or termination of the public work contract.

(b) A suit on a payment bond may not be brought by a payment bond beneficiary after the first anniversary of the date notice for a claim is mailed under this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

Sec. 2253.079. Criminal Offense for False and Fraudulent Claim.

(a) A person commits an offense if the person wilfully files a false and fraudulent claim under this chapter.

(b) An offense under this section is subject to the penalty for false swearing.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993.)

CHAPTER 2254
PROFESSIONAL AND CONSULTING SERVICES

Subchapter A. Professional Services

Section

SUBCHAPTER A
PROFESSIONAL SERVICES

Sec. 2254.001. Short Title.

This subchapter may be cited as the Professional Services Procurement Act.

Sec. 2254.002. Definitions.

In this subchapter:

(1) "Governmental entity" means:

(A) a state agency or department;

(B) a district, authority, county, municipality, or other political subdivision of the state;

(C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or

(D) a publicly owned utility.

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

(i) accounting;

(ii) architecture;

(iii) landscape architecture;

(iv) land surveying;

(v) medicine;

(vi) optometry;

(vii) professional engineering;

(viii) real estate appraising; or

(ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

(i) a certified public accountant;

(ii) an architect;

(iii) a landscape architect;

(iv) a land surveyor;

(v) a physician, including a surgeon;

(vi) an optometrist;

(vii) a professional engineer;

(viii) a state certified or state licensed real estate appraiser; or

(ix) a registered nurse.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 244 (H.B. 1782), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1542 (S.B. 1133), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1409, effective September 1, 2001.)

Sec. 2254.003. Selection of Provider; Fees.

(a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

(1) on the basis of demonstrated competence and qualifications to perform the services; and

(2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

Sec. 2254.0031. Indemnification.

A state governmental entity may require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent acts or omissions of the contractor or persons employed by the contractor. A state governmental entity may not require a contractor to indemnify or hold harmless the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

(Enacted by Acts 1999, 76th Leg., ch. 1499 (S.B. 178), § 1.37, effective September 1, 1999.)

Sec. 2254.004. Contract for Professional Services of Architect, Engineer, or Surveyor.

(a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

(1) formally end negotiations with that provider;

(2) select the next most highly qualified provider; and

(3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 119 (S.B. 626), § 1, effective September 1, 1997.)

Sec. 2254.005. Void Contract.

A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

Sec. 2254.006. Contract Notification.

A state agency, including an institution of higher education as defined by Section 61.003, Education Code, shall provide written notice to the Legislative Budget Board of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds $14,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 10th day after the date the agency enters into the contract.

(Enacted by Acts 1999, 76th Leg., ch. 281 (S.B. 176), § 13, effective September 1, 1999.)

Sec. 2254.007. Declaratory or Injunctive Relief.

(a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by Section 2151.002. In this subsection, "state agency" includes the Texas Building and Procurement Commission.

(Enacted by Acts 2007, 80th Leg., ch. 1213 (H.B. 1886), § 13, effective September 1, 2007.)

CHAPTER 2256
PUBLIC FUNDS INVESTMENT

Subchapter A. Authorized Investments for Governmental Entities

SUBCHAPTER A
AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. Short Title.

This chapter may be cited as the Public Funds Investment Act.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.)

Sec. 2256.002. Definitions.

In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a

member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 1, effective September 1, 1999.)

Sec. 2256.003. Authority to Invest Funds; Entities Subject to This Chapter.

(a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

(1) a local government;

(2) a state agency;

(3) a nonprofit corporation acting on behalf of a local government or a state agency; or

(4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 2, effective September 1, 1999.)

Sec. 2256.004. Applicability.

(a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least $95 million in book value on May 1, 1995;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 505 (S.B. 1304), § 24, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 8.21, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 3, effective September 1, 1999.)

Sec. 2256.005. Investment Policies; Investment Strategies; Investment Officer.

(a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

(1) be written;

(2) primarily emphasize safety of principal and liquidity;

(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

(1) orally;

(2) in writing;

(3) electronically; or

(4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

(1) understanding of the suitability of the investment to the financial requirements of the entity;

(2) preservation and safety of principal;

(3) liquidity;

(4) marketability of the investment if the need arises to liquidate the investment before maturity;

(5) diversification of the investment portfolio; and

(6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

(h) **[2 Versions: As amended by Acts 1997, 75th Leg., ch. 685]** An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

(h) **[2 Versions: As amended by Acts 1997, 75th Leg., ch. 1421]** An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by

affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. For purposes of this subsection, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(*l*) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 685 (S.B. 397), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 4, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 41, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 1, effective June 17, 2011.)

Sec. 2256.006. Standard of Care.

(a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable

income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

(1) preservation and safety of principal;

(2) liquidity; and

(3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

(1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and

(2) whether the investment decision was consistent with the written investment policy of the entity.

(Enacted by Acts 1993, 73rd Leg., ch. 820 (S.B. 529), § 2, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.45(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.005).)

Sec. 2256.007. Investment Training; State Agency Board Members and Officers.

(a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 73 (S.B. 1755), § 1, effective May 9, 1997; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 5, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 2, effective June 17, 2011.)

Sec. 2256.008. Investment Training; Local Governments.

(a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which

the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.45(b), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 5, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 6, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 69 (H.B. 675), § 4, effective May 14, 2001; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 3, effective June 17, 2011.)

Sec. 2256.009. Authorized Investments: Obligations of, or Guaranteed by, Governmental Entities.

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.006); am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 7, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 558 (H.B. 2957), § 1, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 4, effective June 17, 2011.)

Sec. 2256.010. Authorized Investments: Certificates of Deposit and Share Certificates.

(a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision

(1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

(Enacted by Acts 1995, 74th Leg., ch. 32 (H.B. 731), § 1, effective April 28, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.007); am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 6, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 128 (H.B. 256), § 1, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 5, effective June 17, 2011.)

Sec. 2256.011. Authorized Investments: Repurchase Agreements.

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

(Enacted by Acts 1995, 74th Leg., ch. 76, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.45(c), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.008); am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 6, effective June 17, 2011.)

Sec. 2256.0115. Authorized Investments: Securities Lending Program.

(a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

(Enacted by Acts 2003, 78th Leg., ch. 1227 (S.B. 1318), § 1, effective September 1, 2003.)

Sec. 2256.012. Authorized Investments: Bankers' Acceptances.

A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.009).)

Sec. 2256.013. Authorized Investments: Commercial Paper.

Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 270 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.010).)

Sec. 2256.014. Authorized Investments: Mutual Funds.

(a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(3) has a dollar-weighted average stated maturity of 90 days or fewer; and

(4) includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years;

(3) is invested exclusively in obligations approved by this subchapter;

(4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and

(5) conforms to the requirements set forth in Sections 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.011); am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 7, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 8, effective September 1, 1999.)

Sec. 2256.015. Authorized Investments: Guaranteed Investment Contracts.

(a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 8, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1454 (H.B. 3009), § 10, effective September 1, 1999.)

Sec. 2256.016. Authorized Investments: Investment Pools.

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a $1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.013); am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 9, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 7, effective June 17, 2011.)

Sec. 2256.017. Existing Investments.

An entity is not required to liquidate investments that were authorized investments at the time of purchase.

(Enacted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 10, , effective September 1, 1997.)

Sec. 2256.018. Advisory Board of Investment Pools [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 15, effective September 1, 1997.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.)

Sec. 2256.019. Rating of Certain Investment Pools.

A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 11, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 8, effective June 17, 2011.)

Sec. 2256.020. Authorized Investments: Institutions of Higher Education.

In addition to the authorized investments permitted by this subchapter, an institution of higher

education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.014).)

Sec. 2256.0201. Authorized Investments; Municipal Utility.

(a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

(Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 48, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 7 (S.B. 495), § 1, effective April 13, 2007.)

Sec. 2256.0202. Authorized Investments: Municipal Funds from Management and Development of Mineral Rights.

(a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

(Enacted by Acts 2009, 81st Leg., ch. 1371 (S.B. 894), § 1, effective September 1, 2009.)

Sec. 2256.0203. Authorized Investments: Ports and Navigation Districts.

(a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

(Enacted by Acts 2011, 82nd Leg., ch. 804 (H.B. 2346), § 1, effective September 1, 2011.)

Sec. 2256.0204. Authorized Investments: Independent School Districts.

(a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Corporate bonds are not an eligible investment for a public funds investment pool.

(Enacted by Acts 2011, 82nd Leg., ch. 1347 (S.B. 1543), § 1, effective June 17, 2011.)

Sec. 2256.0205. Authorized Investments; Decommissioning Trust.

(a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

(Enacted by Acts 2005, 79th Leg., ch. 121 (S.B. 1464), § 1, effective September 1, 2005.)

Sec. 2256.021. Effect of Loss of Required Rating.

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.)

Sec. 2256.022. Expansion of Investment Authority.

Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 785 (S.B. 19), § 42, effective September 1, 2003.)

Sec. 2256.023. Internal Management Reports.

(a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 12, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 1004 (H.B. 2226), § 9, effective June 17, 2011.)

Sec. 2256.024. Subchapter Cumulative.

(a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b), this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.015).)

Sec. 2256.025. Selection of Authorized Brokers.

The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

(Enacted by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 13, effective September 1, 1997.)

Sec. 2256.026. Statutory Compliance.

All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

(Enacted by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 13, effective September 1, 1997.)

SUBCHAPTER B
MISCELLANEOUS PROVISIONS

Sec. 2256.051. Electronic Funds Transfer.

Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.)

Sec. 2256.052. Private Auditor.

Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 256.058).)

Sec. 2256.053. Payment for Securities Purchased by State.

The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.
(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.102).)

Sec. 2256.054. Delivery of Securities Purchased by State.

A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.
(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.103); repealed by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.68, effective September 1, 1997.)

Sec. 2256.055. Deposit of Securities Purchased by State.

At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.
(Am. Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995 (renumbered from Sec. 2256.104); repealed by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.69, effective September 1, 1997.)

Sec. 2256.056. Compliance with Other Laws [Repealed].

Repealed by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 28(b)(1), effective September 1, 1999 and Acts 1999, 76th Leg., ch. 350 (H.B. 2235), § 1, effective September 1, 1999.
(Repealed by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995; Enacted by Acts 1997, 75th Leg., ch. 1421 (H.B. 2799), § 14, effective September 1, 1997; repealed by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 28(b)(1), effective September 1, 1999; repealed by Acts 1999, 76th Leg., ch. 350 (H.B. 2235), § 1, effective September 1, 1999.)

Sec. 2256.057. Internal Management Reports [Deleted].

Deleted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995. See now Tex. Gov't Code § 2256.023.

Sec. 2256.058. Private Auditor [Renumbered].

Renumbered to Tex. Gov't Code § 2256.052 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.059. Effect of Other Law [Deleted].

Deleted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995. See now Tex. Gov't Code § 2256.024.

SUBCHAPTER C
PAYMENT FOR DELIVERY AND DEPOSIT OF SECURITIES PURCHASED BY STATE

Sec. 2256.101. Authorized Investments; Application of Income [Deleted].

Deleted by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995. See now Tex. Gov't Code § 2256.009.

Sec. 2256.102. Payment for Securities Purchased by State [Renumbered].

Renumbered to Tex. Gov't Code § 2256.053 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.103. Delivery of Securities Purchased by State [Renumbered].

Renumbered to Tex. Gov't Code § 2256.054 by Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

Sec. 2256.104. Deposit of Securities Purchased by State [Renumbered].

Renumbered to Tex. Gov't Code § 2256.055 by

Acts 1995, 74th Leg., ch. 402 (H.B. 2459), § 1, effective September 1, 1995.

CHAPTER 2257
COLLATERAL FOR PUBLIC FUNDS

Subchapter A. General Provisions

Subchapter B. Depository; Security for Deposit of Public Funds

Subchapter C. Custodian; Permitted Institution

Subchapter D. Audits and Examinations; Penalties

Subchapter E. Exempt Institutions

Subchapter F. Pooled Collateral to Secure Deposits of Certain Public Funds

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2257.001. Short Title.

This chapter may be cited as the Public Funds Collateral Act.

Sec. 2257.002. Definitions.

In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 31.002(a), Finance Code.

(2) "Control" has the meaning assigned by Section 31.002(a), Finance Code.

(3) "Deposit of public funds" means public funds of a public entity that:

(A) the comptroller does not manage under Chapter 404; and

(B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(4) "Eligible security" means:

(A) a surety bond;

(B) an investment security;

(C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

(D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security;

(E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

(F) a letter of credit issued by a federal home loan bank.

(5) "Investment security" means:

(A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and backed by its full faith and credit;

(B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or

(C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(6) "Permitted institution" means:

(A) a Federal Reserve Bank;

(B) a clearing corporation, as defined by Section 8.102, Business & Commerce Code;

(C) a bank eligible to be a custodian under Section 2257.041; or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(7) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(8) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(9) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(10) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.48(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 914 (H.B. 1543), § 5, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 254 (H.B. 3334), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.22(4), effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 8.70, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 7.63, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 783 (H.B. 2103), § 1, effective June 17, 2011.)

Sec. 2257.0025. High-Risk Mortgage Security.

(a) For purposes of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(Enacted by Acts 1997, 75th Leg., ch. 254 (H.B. 3334), § 2, effective September 1, 1997.)

Sec. 2257.003. Chapter Not Applicable to Deferred Compensation Plans.

This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401(k) and 457).

Sec. 2257.004. Conflict with Other Law.

This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Sec. 2257.005. Contract Governs Legal Action.

A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

SUBCHAPTER B
DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. Collateral Required.

A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Sec. 2257.022. Amount of Collateral.

(a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

(1) increased by the amount of any accrued interest; and

(2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The total value of eligible security described by Section 45.201(4)(D), Education Code, to secure a deposit of public funds of a school district must be in an amount not less than 110 percent of the amount of the deposit as determined under Subsection (a). The total market value of the eligible security must be reported at least once each month to the school district.

(c) The value of a surety bond is its face value.

(d) The value of an investment security is its market value.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 46, effective September 1, 2003.)

Sec. 2257.023. Collateral Policy.

(a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:

(1) the security of the institution that obtains or holds an investment security;

(2) the substitution or release of an investment security; and

(3) the method by which an investment security used to secure a deposit of public funds is valued.

Sec. 2257.024. Contract for Securing Deposit of Public Funds.

(a) A public entity may contract with a bank that has its main office or a branch office in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:

(1) possession of the collateral;

(2) substitution or release of an investment security;

(3) ownership of the investment securities of the bank used to secure a deposit of public funds; and

(4) method by which an investment security used to secure a deposit of public funds is valued.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 344 (H.B. 2066), § 5.006, effective September 1, 1999.)

Sec. 2257.025. Records of Depository.

(a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.16, effective September 1, 1997.)

Sec. 2257.026. Change in Amount or Activity of Deposits of Public Funds.

A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.

SUBCHAPTER C
CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. Deposit of Securities with Custodian.

(a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds. The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

(A) is designated by the comptroller as a state depository;

(B) has its main office or a branch office in this state; and

(C) has a capital stock and permanent surplus of $5 million or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank;

(4) a federal home loan bank; or

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian pursuant to Section 404.031(e).

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1010 (S.B. 1037), § 1, effective June 17, 1995; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.17, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 344 (H.B. 2066), § 5.007, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 3, effective September 1, 2009.)

Sec. 2257.042. Deposit of Securities with Permitted Institution.

(a) A custodian may deposit with a permitted institution an investment security the custodian holds under Section 2257.041.

(b) If a deposit is made under Subsection (a):

(1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;

(2) the trust receipt the custodian issues under Section 2257.045 shall show that the custodian has deposited the security in a permitted institution; and

(3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Sec. 2257.043. Depository As Custodian or Permitted Institution.

(a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds by a state agency.

Sec. 2257.044. Custodian As Bailee.

(a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section 61.003, Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter 8 or 9, Business & Commerce Code.

Sec. 2257.045. Receipt of Security by Custodian.

(a) On receipt of an investment security, a custodian shall immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity.

(b) For a deposit of public funds under Subchapter F, the custodian shall issue and deliver to the comptroller a trust receipt for the pledged security.

(c) For any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, the custodian shall:

(1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

(d) The custodian shall issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 2013, 83rd Leg., ch. 434 (S.B. 581), § 1, effective June 14, 2013.)

Sec. 2257.046. Books and Records of Custodian; Inspection.

(a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

(d) At the request of the appropriate public entity officer, the public entity's custodian shall provide a current list of all pledged investment securities. The list must include, for each pledged investment security:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.18, effective September 1, 1997; am. Acts 2013, 83rd Leg., ch. 434 (S.B. 581), § 2, effective June 14, 2013.)

Sec. 2257.047. Books and Records of Permitted Institution.

(a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state the name of the custodian that deposits an investment security in the permitted institution.

Sec. 2257.048. Attachment and Perfection of Security Interest.

(a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

SUBCHAPTER D
AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. Audits and Examinations.

As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

(1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and

(2) report any significant or material noncompliance with this chapter to the comptroller.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.19, effective September 1, 1997.)

Sec. 2257.062. Penalties.

(a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

(1) did not maintain reasonable compliance with this chapter; and

(2) failed to remedy a violation of this chapter within a reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

(1) has not maintained reasonable compliance with this chapter; and

(2) has acted in bad faith by not remedying a violation of this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.19, effective September 1, 1997.)

Sec. 2257.063. Mitigating Circumstances.

(a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section 2257.062, including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section 2257.026.

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 891 (H.B. 2380), § 3.19, effective September 1, 1997.)

Sec. 2257.064. Reinstatement.

The comptroller may reinstate a depository's designation as a state depository if:

(1) the comptroller determines that the depository has remedied all violations of this chapter; and

(2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997,

75th Leg., ch. 891 (H.B. 2380), § 3.19, effective September 1, 1997.)

SUBCHAPTER E
EXEMPT INSTITUTIONS

Sec. 2257.081. Definition.

In this subchapter, "exempt institution" means:

(1) a public retirement system, as defined by Section 802.001; or

(2) the permanent school fund, as described by Section 43.001, Education Code.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.31, effective September 1, 1997.)

Sec. 2257.082. Funds of Exempt Institution.

An exempt institution is not required to have its funds fully insured or collateralized at all times if:

(1) the funds are held by:

(A) a custodian of the institution's assets under a trust agreement; or

(B) a person in connection with a transaction related to an investment; and

(2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Sec. 2257.083. Investment; Selection of Depository.

This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

SUBCHAPTER F
POOLED COLLATERAL TO SECURE DEPOSITS OF CERTAIN PUBLIC FUNDS

Sec. 2257.101. Definition.

In this subchapter, "participating institution" means a financial institution that holds one or more deposits of public funds and that participates in the pooled collateral program under this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.102. Pooled Collateral Program.

(a) As an alternative to collateralization under Subchapter B, the comptroller by rule shall establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions. The rules must provide that deposits of public funds of a county are not eligible for collateralization under the program. The comptroller shall provide for a separate collateral pool for any single participating institution's deposits of public funds.

(b) Under the pooled collateral program, the collateral of a participating institution pledged for a public deposit may not be combined with, cross-collateralized with, aggregated with, or pledged to another participating institution's collateral pools for pledging purposes.

(c) A participating institution may pledge its pooled securities to more than one participating depositor under contract with that participating institution.

(d) The pooled collateral program must provide for:

(1) participation in the program by a participating institution and each affected public entity to be voluntary;

(2) uniform procedures for processing all collateral transactions that are subject to an approved security agreement described by Section 2257.103; and

(3) the pledging of a participating institution's collateral securities using a single custodial account instead of an account for each depositor of public funds.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.103. Participation in Pooled Collateral Program.

A financial institution may participate in the pooled collateral program only if:

(1) the institution has entered into a binding collateral security agreement with a public agency for a deposit of public funds and the agreement permits the institution's participation in the program;

(2) the comptroller has approved the institution's participation in the program; and

(3) the comptroller has approved or provided the collateral security agreement form used.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.104. Collateral Required; Custodian Trustee.

(a) Each participating institution shall secure its deposits of public funds with eligible securities the total value of which equals at least 102 percent of the amount of the deposits of public funds covered by a security agreement described by Section 2257.103 and deposited with the participating institution, reduced to the extent that the United States or an instrumentality of the United States insures the deposits. For purposes of determining whether collateral is sufficient to secure a deposit of public funds, Section 2257.022(b) does not apply to a deposit of public funds held by the participating institution and collateralized under this subchapter.

(b) A participating institution shall provide for the collateral securities to be held by a custodian trustee, on behalf of the participating institution, in trust for the benefit of the pooled collateral program. A custodian trustee must qualify as a custodian under Section 2257.041.

(c) The comptroller by rule shall regulate a custodian trustee under the pooled collateral program in the manner provided by Subchapter C to the extent practicable. The rules must ensure that a custodian trustee depository does not own, is not owned by, and is independent of the financial institution or institutions for which it holds the securities in trust, except that the rules must allow the following to be a custodian trustee:

(1) a federal reserve bank;

(2) a banker's bank, as defined by Section 34.105, Finance Code; and

(3) a federal home loan bank.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.105. Monitoring Collateral.

(a) Each participating institution shall file the following reports with the comptroller electronically and as prescribed by rules of the comptroller:

(1) a daily report of the aggregate ledger balance of deposits of public agencies participating in the pooled collateral program that are held by the institution, with each public entity's funds held itemized;

(2) a weekly summary report of the total market value of securities held by a custodian trustee on behalf of the participating institution;

(3) a monthly report listing the collateral securities held by a custodian trustee on behalf of the participating institution, together with the value of the securities; and

(4) as applicable, a participating institution's annual report that includes the participating institution's financial statements.

(b) The comptroller shall provide the participating institution an acknowledgment of each report received.

(c) The comptroller shall provide a daily report of the market value of the securities held in each pool.

(d) The comptroller shall post each report on the comptroller's Internet website.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.106. Annual Assessment.

(a) Once each state fiscal year, the comptroller shall impose against each participating institution an assessment in an amount sufficient to pay the costs of administering this subchapter. The amount of an assessment must be based on factors that include the number of public entity accounts a participating institution maintains, the number of transactions a participating institution conducts, and the aggregate average weekly deposit amounts during that state fiscal year of each participating institution's deposits of public funds collateralized under this subchapter. The comptroller by rule shall establish the formula for determining the amount of the assessments imposed under this subsection.

(b) The comptroller shall provide to each participating institution a notice of the amount of the assessment against the institution.

(c) A participating institution shall remit to the comptroller the amount assessed against it under this section not later than the 45th day after the date the institution receives the notice under Subsection (b).

(d) Money remitted to the comptroller under this section may be appropriated only for the purposes of administering this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.107. Penalty for Reporting Violation.

The comptroller may impose an administrative penalty against a participating institution that does not timely file a report required by Section 2257.105.

(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.108. Notice of Collateral Violation; Administrative Penalty.

(a) The comptroller may issue a notice to a participating institution that the institution appears to be in violation of collateral requirements under Section 2257.104 and rules of the comptroller.

(b) The comptroller may impose an administrative penalty against a participating institution that does not maintain collateral in an amount and in the manner required by Section 2257.104 and rules of the comptroller if the participating institution has not remedied the violation before the third business day after the date a notice is issued under Subsection (a).
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.109. Penalty for Failure to Pay Assessment.

The comptroller may impose an administrative penalty against a participating institution that does not pay an assessment against it in the time provided by Section 2257.106(c).
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.110. Penalty Amount; Penalties Not Exclusive.

(a) The comptroller by rule shall adopt a formula for determining the amount of a penalty under this subchapter. For each violation and for each day of a continuing violation, a penalty must be at least $100 per day and not more than $1,000 per day. The penalty must be based on factors that include:

(1) the aggregate average weekly deposit amounts during the state fiscal year of the institution's deposits of public funds;

(2) the number of violations by the institution during the state fiscal year;

(3) the number of days of a continuing violation; and

(4) the average asset base of the institution as reported on the institution's year-end report of condition.

(b) The penalties provided by Sections 2257.107-2257.109 are in addition to those provided by Subchapter D or other law.
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.111. Penalty Proceeding Contested Case.

A proceeding to impose a penalty under Section 2257.107, 2257.108, or 2257.109 is a contested case under Chapter 2001.
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.112. Suit to Collect Penalty.

The attorney general may sue to collect a penalty imposed under Section 2257.107, 2257.108, or 2257.109.
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.113. Enforcement Stayed Pending Review.

Enforcement of a penalty imposed under Section 2257.107, 2257.108, or 2257.109 may be stayed during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A participating institution that cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the comptroller to contest the affidavit as provided by those rules.
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

Sec. 2257.114. Use of Collected Penalties.

Money collected as penalties under this subchapter may be appropriated only for the purposes of administering this subchapter.
(Enacted by Acts 2009, 81st Leg., ch. 486 (S.B. 638), § 1, effective September 1, 2009.)

CHAPTER 2258
PREVAILING WAGE RATES

Subchapter A. General Provisions

Subchapter B. Payment of Prevailing Wage Rates

Subchapter C. Enforcement; Civil and Criminal Penalties

Section
2258.058. Criminal Offense.

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2258.001. Definitions.

In this chapter:

(1) "Locality in which the work is performed" means:

(A) for a contract for a public work awarded by the state, the political subdivision of the state in which the public work is located:

(i) which may include a county, municipality, county and municipality, or district, except as provided by Subparagraph (ii); and

(ii) which, in a municipality with a population of 500,000 or more, may only include the geographic limits of the municipality; or

(B) for a contract for a public work awarded by a political subdivision of the state, the geographical limits of the political subdivision.

(2) "Public body" means a public body awarding a contract for a public work on behalf of the state or a political subdivision of the state.

(3) "Worker" includes a laborer or mechanic.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 14.04, effective September 1, 2001.)

Sec. 2258.002. Applicability of Chapter to Public Works.

(a) This chapter applies only to the construction of a public work, including a building, highway, road, excavation, and repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.

(b) This chapter does not apply to work done directly by a public utility company under an order of a public authority.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.003. Liability.

An officer, agent, or employee of a public body is not liable in a civil action for any act or omission implementing or enforcing this chapter unless the action was made in bad faith.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

SUBCHAPTER B
PAYMENT OF PREVAILING WAGE RATES

Sec. 2258.021. Right to Be Paid Prevailing Wage Rates.

(a) A worker employed on a public work by or on behalf of the state or a political subdivision of the state shall be paid:

(1) not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and

(2) not less than the general prevailing rate of per diem wages for legal holiday and overtime work.

(b) Subsection (a) does not apply to maintenance work.

(c) A worker is employed on a public work for the purposes of this section if the worker is employed by a contractor or subcontractor in the execution of a contract for the public work with the state, a political subdivision of the state, or any officer or public body of the state or a political subdivision of the state.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 18.01, effective September 1, 1997.)

Sec. 2258.022. Determination of Prevailing Wage Rates.

(a) For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:

(1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed; or

(2) using the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

(b) This subsection applies only to a public work located in a county bordering the United Mexican States or in a county adjacent to a county bordering the United Mexican States. For a contract for a public work awarded by the state, the public body

shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work as follows. The public body shall conduct a survey of the wages received by classes of workers employed on projects of a character similar to the contract work both statewide and in the political subdivision of the state in which the public work is to be performed. The public body shall also consider the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, but only if the survey used to determine that rate was conducted within a three-year period preceding the date the public body calls for bids for the public work. The public body shall determine the general prevailing rate of per diem wages in the locality based on the higher of:

(1) the rate determined from the survey conducted in the political subdivision;

(2) the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined from the statewide survey; and

(3) if applicable, the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined by the United States Department of Labor.

(c) The public body shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.

(d) A public body shall specify in the call for bids for the contract and in the contract itself the wage rates determined under this section.

(e) The public body's determination of the general prevailing rate of per diem wages is final.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 18.02, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1422 (S.B. 311), § 14.05, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 728 (H.B. 2625), § 1, effective September 1, 2007.)

Sec. 2258.023. Prevailing Wage Rates to Be Paid by Contractor and Subcontractor; Penalty.

(a) The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.

(b) A contractor or subcontractor who violates this section shall pay to the state or a political subdivision of the state on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body awarding a contract shall specify this penalty in the contract.

(c) A contractor or subcontractor does not violate this section if a public body awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as provided by Section 2258.022.

(d) The public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.

(e) A municipality is entitled to collect a penalty under this section only if the municipality has a population of more than 10,000.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.024. Records.

(a) A contractor and subcontractor shall keep a record showing:

(1) the name and occupation of each worker employed by the contractor or subcontractor in the construction of the public work; and

(2) the actual per diem wages paid to each worker.

(b) The record shall be open at all reasonable hours to inspection by the officers and agents of the public body.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.025. Payment Greater Than Prevailing Rate Not Prohibited.

This chapter does not prohibit the payment to a worker employed on a public work an amount greater than the general prevailing rate of per diem wages.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.026. Reliance on Certificate of Subcontractor.

A contractor is entitled to rely on a certificate by a subcontractor regarding the payment of all sums due those working for the subcontractor until the contrary has been determined.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

SUBCHAPTER C ENFORCEMENT; CIVIL AND CRIMINAL PENALTIES

Sec. 2258.051. Duty of Public Body to Hear Complaints and Withhold Payment.

A public body awarding a contract, and an agent or officer of the public body, shall:

(1) take cognizance of complaints of all violations of this chapter committed in the execution of the contract; and

(2) withhold money forfeited or required to be withheld under this chapter from the payments to the contractor under the contract, except that the public body may not withhold money from other than the final payment without a determination by the public body that there is good cause to believe that the contractor has violated this chapter.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.052. Complaint; Initial Determination.

(a) On receipt of information, including a complaint by a worker, concerning an alleged violation of Section 2258.023 by a contractor or subcontractor, a public body shall make an initial determination as to whether good cause exists to believe that the violation occurred.

(b) A public body must make its determination under Subsection (a) before the 31st day after the date the public body receives the information.

(c) A public body shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

(d) A public body shall retain any amount due under the contract pending a final determination of the violation.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.053. Arbitration Required for Unresolved Issue.

(a) An issue relating to an alleged violation of Section 2258.023, including a penalty owed to a public body or an affected worker, shall be submitted to binding arbitration in accordance with the Texas General Arbitration Act (Article 224 et seq., Revised Statutes) if the contractor or subcontractor and any affected worker do not resolve the issue by agreement before the 15th day after the date the public body makes its initial determination under Section 2258.052.

(b) If the persons required to arbitrate under this section do not agree on an arbitrator before the 11th day after the date that arbitration is required under Subsection (a), a district court shall appoint an arbitrator on the petition of any of the persons.

(c) A public body is not a party in the arbitration.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.054. Arbitration Award; Costs.

(a) If an arbitrator determines that Section 2258.023 has been violated, the arbitrator shall assess and award against the contractor or subcontractor:

(1) penalties as provided by Section 2258.023 and this section; and

(2) all amounts owed to the affected worker.

(b) An arbitrator shall assess and award all reasonable costs, including the arbitrator's fee, against the party who does not prevail. Costs may be assessed against the worker only if the arbitrator finds that the claim is frivolous. If the arbitrator does not find that the claim is frivolous and does not make an award to the worker, costs are shared equally by the parties.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.055. Arbitration Decision and Award Final.

The decision and award of the arbitrator is final and binding on all parties and may be enforced in any court of competent jurisdiction.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.056. Payment by Public Body to Worker; Action to Recover Payment.

(a) A public body shall use any amounts retained under this chapter to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have received at the general prevailing wage rate as provided in the arbitrator's award.

(b) The public body may adopt rules, orders, or ordinances relating to the manner in which a reimbursement is made.

(c) If the amounts retained by a public body under this chapter are not sufficient for the public body to pay the worker the full amount owed, the worker has a right of action against the contractor or subcontractor and the surety of the contractor or subcontractor to recover the amount owed, reasonable attorney's fees, and court costs.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.057. Withholding by Contractor.

(a) A contractor may withhold from a subcontractor sufficient money to cover an amount withheld from the contractor by a public body because the subcontractor violated this chapter.

(b) If the contractor has made a payment to the subcontractor, the contractor may withhold money from any future payments owed to the subcontractor or sue the subcontractor or the subcontractor's surety for the amount withheld from the contractor by a public body because of the subcontractor's violation.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

Sec. 2258.058. Criminal Offense.

(a) An officer, agent, or representative of the state or of a political subdivision of the state commits an offense if the person wilfully violates or does not comply with a provision of this chapter.

(b) A contractor or subcontractor of a public work under this chapter, or an agent or representative of the contractor or subcontractor, commits an offense if the person violates Section 2258.024.

(c) An offense under this section is punishable by:

(1) a fine not to exceed $500;

(2) confinement in jail for a term not to exceed six months; or

(3) both a fine and confinement.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.49(a), effective September 1, 1995.)

CHAPTER 2259
SELF-INSURANCE BY GOVERNMENTAL UNITS

Subchapter B. Self-Insurance Fund

Section

SUBCHAPTER B
SELF-INSURANCE FUND

Sec. 2259.031. Establishment of Fund.

(a) A governmental unit may establish a self-insurance fund to protect the governmental unit and its officers, employees, and agents from any insurable risk or hazard.

(b) The governmental unit may:

(1) issue public securities and use the proceeds for all or part of the fund; or

(2) use any money available to the governmental unit for the fund.

(c) The governmental unit may purchase reinsurance for a risk covered through the fund.

(d) Any law, including a regulation, requiring insurance may be satisfied by coverage provided through the fund.

(e) Any law, including a regulation, requiring a certificate of insurance or an insurance agent's signature, countersignature, or approval may be satisfied by a certificate of coverage issued on behalf of the governmental unit demonstrating that coverage is provided through the fund.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 5, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 428 (S.B. 531), § 1, effective September 1, 2013.)

CHAPTER 2265
REQUIRED PUBLICATION AND REPORTING BY GOVERNMENTAL ENTITIES

Section

Sec. 2265.001. Recording and Reporting of Electricity, Water, and Natural Gas Consumption.

(a) In this section, "governmental entity" means:

(1) a board, commission, or department of the state or a political subdivision of the state, including a municipality, a county, or any kind of district; or

(2) an institution of higher education as defined by Section 61.003, Education Code.

(b) Notwithstanding any other law, a governmental entity responsible for payments for electric, water, or natural gas utility services shall record in an electronic repository the governmental entity's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location.

(Enacted by Acts 2007, 80th Leg., ch. 939 (H.B. 3693), § 8, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(48), effective September 1, 2009 (renumbered from Sec. 2264.001).)

CHAPTER 2266
FINANCIAL ACCOUNTING AND REPORTING

Subchapter A. General Provisions

Section

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2266.001. Applicability.

This chapter applies to this state and to each political subdivision of this state.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 20009 (renumbered from Sec. 2264.001).)

Sec. 2266.002. Applicability to Component Units.

To the extent an entity is reported on the financial statement of the state or a political subdivision as a component unit, the statutory accounting principles and reporting standards in this chapter apply to that entity.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), §§ 27.001, § (49), effective September 1, 2009 (renumbered from Sec. 2264.002).)

SUBCHAPTER B
FINANCIAL ACCOUNTING AND REPORTING STANDARDS

Sec. 2266.051. Requirements for System of Accounting and Reporting.

The system of accounting for and reporting the financial activities of this state and its political subdivisions:

(1) must be consistent with state financial laws;

(2) may not misrepresent the nature, scope, or duration of the financial activities of the state or political subdivision; and

(3) may follow the statutory standards in this chapter when other accounting bases conflict with state law.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.051).)

Sec. 2266.052. Statutory Modified Accrual Basis.

(a) In this state, a statutory modified accrual basis qualifies as an other comprehensive basis of accounting that recognizes revenue when it is measurable and available to finance current expenditures and recognizes expenditures when they are normally expected to be liquidated with current financial resources regardless of when they mature.

(b) This state and its political subdivisions may account for and report selected types of financial activities on a statutory modified accrual basis for government-wide and fund-level internal and external financial statement reporting.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.052).)

Sec. 2266.053. Compliance with Accounting Principles.

Compliance with the statutory accounting principles of this chapter by this state or a political subdivision satisfies any other law that requires accounting and reporting according to generally accepted accounting principles, including Section 403.013 or 2101.012.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.053).)

SUBCHAPTER C
OTHER POSTEMPLOYMENT BENEFITS

Sec. 2266.101. Definitions.

In this subchapter:

(1) "Other postemployment benefits" means employee benefit programs for which coverage or eligibility extends to retired employees. The term does not include pension benefits.

(2) "Pay-as-you-go" means benefit plan financing generally made at or about the same time and in or about the same amount as benefit payments and expenditures become due.

(3) "State system" means:

(A) the Employees Retirement System of Texas;

(B) the Teacher Retirement System of Texas;

(C) The Texas A&M University System; or

(D) The University of Texas System.

(4) "Substantive plan" means a plan providing other postemployment benefits approved by the governing body of the plan provider according to the laws and constitution of this state.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.101).)

Sec. 2266.102. Accounting for Other Postemployment Benefits.

To the extent that generally accepted accounting principles require accounting or reporting of other postemployment benefits at the government-wide or fund level on any basis other than pay-as-you-go, this state and its political subdivisions may account for or report those other postemployment benefits in accordance with the statutory accounting principles in this chapter.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.102).)

Sec. 2266.103. Communication of State System's Obligations to Provide Other Postemployment Benefits.

(a) In this section, "member" means a person to whom a state system provides, or has promised to provide, other postemployment benefits, including:

(1) a retiree, annuitant, or employee; or

(2) a spouse, surviving spouse, or other dependent.

(b) A state system shall fully disclose to its members that the system is not obligated to provide benefits beyond existing statutory, constitutional, or other legal requirements. This includes requirements that limit the duration for which benefits are legally obligated such as Section 6, Article VIII, Texas Constitution, which limits appropriations to two years or less, and other requirements that limit expenditures to one year or less or some other term.

(c) A state system shall inform its members about the extent of the system's commitments regarding other postemployment benefits, including whether the other postemployment benefits are limited by funding obligations or whether the funding obligations extend throughout the life of the member.

(d) A state system shall disclose on the entity's website the information required by this section.

(e) Other governmental entities of this state or its political subdivisions may comply with this section.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.103).)

Sec. 2266.104. Disclosure of Information on Financial Statements; Generally.

This state or a political subdivision of this state shall disclose in its notes to the financial statement in a manner consistent with this subchapter:

(1) other postemployment benefits that it provides in its substantive plan, including:

(A) the covered employee groups;

(B) eligibility requirements; and

(C) the amount, described in an appropriate manner, of obligations that it and the member contribute;

(2) the statutory, contractual, or other authority under which other postemployment benefits are provided under Subdivision (1);

(3) the accounting, financing, and funding policies that it follows;

(4) the amount of other postemployment benefits expenditures that it recognizes during the period, net of member contributions;

(5) the number of members currently eligible to receive other postemployment benefits;

(6) any significant matters that affect the comparability of the disclosures required by this section with those for the previous period; and

(7) any additional information that it believes will assist in explaining the nature and cost of its commitment to provide other postemployment benefits.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.104).)

Sec. 2266.105. Additional Optional Financial Disclosures.

(a) This state or a political subdivision of this state may disclose, for informational and planning purposes only and in a manner consistent with this subchapter, the expense and liability that would

exist if other postemployment benefits had been guaranteed to members.

(b) This state or a political subdivision may make this supplemental disclosure in its other supplemental statistical information to the financial statements by disclosing:

(1) its actuarial methods and assumptions or other estimation methodology;

(2) its net other postemployment benefits obligation;

(3) its funding status and funding progress;

(4) that the supplemental disclosure is for informational purposes only and is not an obligation or other promise to provide benefits beyond that approved by its governing body; and

(5) any additional information that it believes will help explain the nature and cost of a potential commitment to provide other postemployment benefits.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.105).)

Sec. 2266.106. Comptroller Website.

(a) The comptroller shall maintain a website to provide guidance to the state and its political subdivisions in implementing the requirements and goals of this subchapter.

(b) The site must include information that makes the site a resource tool for the state and its political subdivisions to consistently manage other postemployment benefits to conform to statutory, constitutional, and other legal requirements.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.106).)

Sec. 2266.107. Comptroller Advice and Reporting Requirements.

(a) The comptroller shall issue reporting requirements for state retirement systems, including state systems, to provide guidance on how to comply with accounting principles in a manner consistent with this subchapter.

(b) The comptroller shall provide advice to a political subdivision of this state that requests advice on how to apply accounting principles in a manner consistent with this subchapter.

(Enacted by Acts 2007, 80th Leg., ch. 1224 (H.B. 2365), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 27.001(49), effective September 1, 2009 (renumbered from Sec. 2264.107).)

CHAPTER 2267
PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE

Subchapter A. General Provisions

Subchapter B. Qualifying Projects

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2267.001. Definitions.

In this chapter:

(1) "Affected jurisdiction" means any county or municipality in which all or a portion of a qualifying project is located.

(1-a) "Commission" means the Partnership Advisory Commission established under Chapter 2268.

(2) "Comprehensive agreement" means the comprehensive agreement authorized by Section 2267.058 between the contracting person and the responsible governmental entity.

(3) "Contracting person" means a person who enters into a comprehensive or interim agreement with a responsible governmental entity under this chapter.

(4) "Develop" means to plan, design, develop, finance, lease, acquire, install, construct, or expand a qualifying project.

(5) "Governmental entity" means:

(A) a board, commission, department, or other agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, that elects to operate under this chapter through the adoption of a resolution by the institution's board of regents; and

(B) a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body of the political subdivision.

(5-a) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land;

(B) the installation of water, sewer, or drainage lines on, above, or under land;

(C) the paving of undeveloped land; and

(D) specialized software that in any manner is related to the control, management, maintenance, or operation of an improvement.

(6) "Interim agreement" means an agreement authorized by Section 2267.059 between a contracting person and a responsible governmental entity that proposes the development or operation of the qualifying project.

(7) "Lease payment" means any form of payment, including a land lease, by a governmental entity to the contracting person for the use of a qualifying project.

(8) "Material default" means any default by a contracting person in the performance of duties imposed under Section 2267.057(f) that jeopardizes adequate service to the public from a qualifying project.

(9) "Operate" means to finance, maintain, improve, equip, modify, repair, or operate a qualifying project.

(9-a) "Private entity" means any individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity.

(9-b) "Property" means any matter or thing capable of public or private ownership.

(9-c) "Proposer" means a private entity that submits a proposal to a responsible governmental entity or affected jurisdiction.

(10) "Qualifying project" means:

(A) any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, technology facility, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or

(B) any improvements necessary or desirable to real property owned by a governmental entity.

(10-a) "Real property" means:

(A) improved or unimproved land;

(B) an improvement;

(C) a mine or quarry;

(D) a mineral in place;

(E) standing timber; or

(F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property described by Paragraphs (A) through (E).

(11) "Responsible governmental entity" means a governmental entity that has the power to develop or operate an applicable qualifying project.

(12) "Revenue" means all revenue, income, earnings, user fees, lease payments, or other service payments that arise out of or in connection with the development or operation of a qualifying project, including money received as a grant or otherwise from the federal government, a governmental entity, or any agency or instrumentality of the federal government or governmental entity in aid of the project.

(13) "Service contract" means a contract between a governmental entity and a contracting person under Section 2267.054.

(14) "Service payment" means a payment to a contracting person of a qualifying project under a service contract.

(14-a) "State entity" means a governmental entity described by Subdivision (5)(A).

(15) "User fee" means a rate, fee, or other charge imposed by a contracting person for the use of all or part of a qualifying project under a comprehensive agreement.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 271 (H.B. 768), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 23, effective June 14, 2013.)

Sec. 2267.002. Declaration of Public Purpose; Construction of Chapter.

(a) The legislature finds that:

(1) there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities in this state that serve a public need and purpose;

(2) the public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed;

(3) there are inadequate resources to develop new education facilities, technology and other public infrastructure, and government facilities for the benefit of the citizens of this state, and there is demonstrated evidence that partnerships between public entities and private entities or other persons can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;

(4) financial incentives exist under state and federal tax provisions that encourage public entities to enter into partnerships with private entities or other persons to develop qualifying projects; and

(5) authorizing private entities or other persons to develop or operate one or more qualifying projects may serve the public safety, benefit, and welfare by making the projects available to the public in a more timely or less costly fashion.

(b) An action authorized under Section 2267.053 serves the public purpose of this chapter if the action facilitates the timely development or operation of a qualifying project.

(c) The purposes of this chapter include:

(1) encouraging investment in this state by private entities and other persons;

(2) facilitating bond financing or other similar financing mechanisms, private capital, and other funding sources that support the development or operation of qualifying projects in order to expand and accelerate financing for qualifying projects that improve and add to the convenience of the public; and

(3) providing governmental entities with the greatest possible flexibility in contracting with private entities or other persons to provide public services through qualifying projects subject to this chapter.

(d) This chapter shall be liberally construed in conformity with the purposes of this section.

(e) The procedures in this chapter are not exclusive. This chapter does not prohibit a responsible governmental entity from entering into an agreement for or procuring public and private facilities and infrastructure under other statutory authority.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.003. Applicability.

This chapter does not apply to:

(1) the financing, design, construction, maintenance, or operation of a highway in the state highway system;

(2) a transportation authority created under Chapter 451, 452, 453, or 460, Transportation Code;

(3) any telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project; or

(4) except as provided by Section 2165.259, a qualifying project located in the Capitol Complex, as defined by Section 443.0071.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 24, effective June 14, 2013.)

Sec. 2267.004. Applicability of Eminent Domain Law.

This chapter does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.005. [2 Versions: As added by Acts 2013, 83rd Leg., chs. 713 and 1339]

Qualifying Projects in Capitol Complex.

The Texas Facilities Commission may develop or operate a qualifying project located in the Capitol complex, as defined by Section 443.0071, as provided by this chapter only if specifically granted the authority by the legislature.

(Enacted by Acts 2013, 83rd Leg., ch. 713 (H.B. 3436), § 2, effective June 14, 2013; Enacted by Acts 2013, 83rd Leg., ch. 1339 (S.B. 894), § 2, effective June 14, 2013.)

Sec. 2267.005. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 1153] Conflict of Interest.

An employee of a responsible governmental entity or a person related to the employee within the second degree by consanguinity or affinity, as determined under Chapter 573, may not accept money, a financial benefit, or other consideration from a contracting person that has entered into a comprehensive agreement with the responsible governmental entity.

(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0051. Prohibited Employment with Former or Retired Governmental Entity Employees.

(a) A contracting person may not employ or enter into a professional services contract or a consulting services contract under Chapter 2254 with a former or retired employee of the responsible governmental entity with which the person has entered into a comprehensive agreement before the first anniversary of the date on which the former or retired employee terminates employment with the entity.

(b) This section does not prohibit the contracting person from entering into a professional services contract with a corporation, firm, or other business organization that employs a former or retired employee of the responsible governmental entity before the first anniversary of the date the former or retired employee terminates employment with the entity if the former or retired employee does not perform services for the corporation, firm, or other business organization under the comprehensive agreement with the responsible governmental entity that the former or retired employee worked on before terminating employment with the entity.

(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0052. Prohibited Employment of Responsible Governmental Entity Employees.

(a) An employee of a responsible governmental entity may not be employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) The responsible governmental entity shall obtain from each employee sufficient information to determine whether:

(1) the employee is employed by another person; and

(2) a potential conflict of interest exists between the employee's duties for the entity and the employee's duties with the other employer.

(c) Each employee of a responsible governmental entity whose duties relate to a qualifying project shall attest that the employee is aware of and agrees to the responsible governmental entity's ethics and conflict-of-interest policies.

(d) To the extent the other employment is authorized by the responsible governmental entity's policy, this section does not prohibit additional employment for an employee of a responsible governmental entity whose duties are not related to a qualifying project.

(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.006. Development Plan.

(a) If the state intends to develop or operate a qualifying project under this chapter, the state entity proposing to develop or operate the project may adopt a development plan on the real property associated with the project.

(b) The purpose of a development plan is to conserve and enhance the value of real property belonging to the state, taking into consideration the preservation of the health, safety, and general welfare of the communities in which the real property is situated.

(c) The plan must address local land use planning ordinances, which may include the following:

(1) allocation and location of specific uses of the real property, including residential, commercial, industrial, recreational, or other appropriate uses;

(2) densities and intensities of designated land uses;

(3) the timing and rate of development;

(4) timely delivery of adequate facilities and services, including water, wastewater collection and treatment systems, parks and public recreational facilities, drainage facilities, school sites, and roads and transportation facilities; or

(5) needed zoning and other land use regulations.

(d) The plan must comply with existing rules, regulations, orders, or ordinances for real property

development to the extent the rules, regulations, orders, or ordinances are not detrimental to the interests of the state as determined by the special board of review.

(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0061. Public Hearing Before Preparation of Development Plan.

(a) If the state entity is requested to prepare a development plan under Section 2267.006, the state entity shall notify the local government to which the plan will be submitted under Section 2267.0062 of the state entity's intent to prepare a development plan. The state entity shall provide the local government with information relating to:

(1) the location of the real property to be offered for sale or lease;

(2) the highest and best use of the real property; and

(3) the process for preparing the development plan under Section 2267.006 and the process provided under Sections 2267.0065 and 2267.0066 for the special board of review.

(b) Not later than the 30th day after the date the local government receives the notice provided under Subsection (a), the local government may request the state entity to hold a public hearing to solicit public comment. If requested by the local government, the state entity shall hold a public hearing. The local government shall provide notice of the hearing to real property owners in at least the same manner that notice is provided for adopting zoning regulations or subdivision requirements in the local government's jurisdiction. The state entity shall set the agenda for the hearing, which must be completed not later than the 120th day after the date notice is provided under Subsection (a).

(c) If the local government does not request a public hearing under Subsection (b), the state entity may hold a hearing to solicit public comment. The state entity shall provide notice of the hearing in the same manner that a local government is required to provide notice under Subsection (b). The state entity shall set the agenda for the hearing and must complete the hearing not later than the 120th day after the date the notice is provided under Subsection (a).

(d) A public hearing under this section may include:

(1) a presentation by the state entity relating to the state entity's classification of the real property as unused or substantially underused and the state entity's recommendation of the highest and best use to which the real property may legally be placed;

(2) a presentation by the local government relating to relevant local plans, development principles, and ordinances that may affect the development of the real property; and

(3) oral comments and presentations of information by and written comments received from other persons relating to the development of the real property.

(e) The state entity shall prepare a summary of the information and testimony presented at a hearing conducted under this section and may develop recommendations based on the information and testimony. The state entity shall prepare a report summarizing the information and testimony presented at the hearing and the views presented by the state, the affected local governments, and other persons who participated in the hearing process. The governing body of the state entity shall review the state entity's report and may instruct the state entity to incorporate information based on the report in preparing the development plan under Section 2267.006.

(f) The state entity may adopt rules to implement this section. The state entity shall administer the process provided by this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0062. Submission of Plan to Affected Local Government.

(a) The development plan adopted under Section 2267.006 shall be submitted to any local government having jurisdiction over the real property in question for consideration.

(b) The local government shall evaluate the plan and either accept or reject the plan not later than the 120th day after the date the state entity submits the plan.

(c) The plan may be rejected by the local government only on grounds that it does not comply with local ordinances and land use regulations, including zoning and subdivision ordinances.

(d) If the plan is rejected, the local government shall specifically identify any ordinance with which the plan conflicts and propose specific modifications to the plan that will bring it into compliance with the local ordinance.

(e) If the plan is rejected by the affected local government, the state entity may modify the plan to conform to the ordinances specifically identified by the local government and resubmit the plan for approval, or the state entity may apply for necessary rezoning or variances from the local ordinances.

(f) Failure by the local government to act within the 120-day period prescribed by Subsection (b) is

considered an acceptance by the local government of the plan.
(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0063. Rezoning.

(a) If the plan would require zoning inconsistent with any existing zoning or other land use regulation, the state entity or its designated representative may at any time submit a request for rezoning to the local government with jurisdiction over the real property in question.

(b) The rezoning or variance request shall be submitted in the same manner as any such request is submitted to the affected local government provided the local government takes final action on the request not later than the 120th day after the date the request for rezoning or variance is submitted.

(c) Failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an approval of the rezoning request by the local government.
(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0064. Fees and Assessments.

(a) The local government may not impose application, filing, or other fees or assessments on the state for consideration of the plan or the application for rezoning or variance submitted by the state.

(b) The local government may not require the submission of architectural, engineering, or impact studies to be completed at state expense before considering the plan or application for rezoning or variance.
(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0065. Special Board of Review.

(a) If the local government denies the rezoning request submitted under this chapter, the matter may be appealed to a special board of review consisting of the following members:

(1) the land commissioner;

(2) the mayor of the municipality within whose corporate boundaries or extraterritorial jurisdiction the real property is located;

(3) the county judge of the county in which the qualifying project is located;

(4) the executive director of the state entity that proposes to develop or operate the qualifying project; and

(5) a member appointed by the governor.

(b) The land commissioner shall serve as the presiding officer of the special board of review.
(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0066. Hearing.

(a) The special board of review shall conduct one or more public hearings to consider the proposed development plan.

(b) Hearings shall be conducted in accordance with rules adopted by the General Land Office for conducting a special review.

(c) If real property is located in more than one municipality, the hearings on any single tract of real property may be combined.

(d) Any political subdivision in which the tract in question is located and the appropriate central appraisal district shall receive written notice of board hearings at least 14 days before the date of the hearing.

(e) At least one hearing shall be conducted in the county where the real property is located.

(f) If after the hearings the special board of review determines that local zoning requirements are detrimental to the best interest of the state, the board shall issue an order establishing a development plan to govern the use of the real property as provided in this section.

(g) Development of the real property shall be in accordance with the plan and must comply with all local rules, regulations, orders, or ordinances except as specifically identified in an order of the special board of review issued pursuant to Subsection (f). In the event that substantial progress is not made toward development of the tract within five years of the date of adoption by the special board of review, local development policies and procedures shall become applicable to development of the tract, unless the special board of review promulgates a new plan.

(h) The hearing may not be considered a contested case proceeding under Chapter 2001 and is not subject to appeal under that chapter.
(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

Sec. 2267.0067. Binding Effect of Development Plan.

(a) Except as provided by this subsection, a development plan promulgated by the special board of review under this chapter and any plan accepted by a local government shall be final and binding on the state, its lessees, successors in interest and assigns, and affected local governments or political subdivisions unless revised by the special board of review. If the state entity does not receive a bid or auction solicitation for the real property subject to the development plan, the state entity, at the direction of

the executive director of the entity, may revise the development plan to conserve and enhance the value and marketability of the real property.

(b) A local government, political subdivision, owner, builder, developer, or any other person may not modify the development plan without specific approval by the special board of review.

(c) The special board of review must file a copy of the development plan in the deed records of the county in which the real property is located. Revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was adopted by the special board of review or the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

(Enacted by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 25, effective June 14, 2013.)

SUBCHAPTER B
QUALIFYING PROJECTS

Sec. 2267.051. Approval Required; Submission of Proposal for Qualifying Project.

(a) A person may not develop or operate a qualifying project unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter. The person may initiate the approval process by submitting a proposal requesting approval under Section 2267.053(a), or the responsible governmental entity may request proposals or invite bids under Section 2267.053(b).

(b) A person submitting a proposal requesting approval of a qualifying project shall specifically and conceptually identify any facility, building, infrastructure, or improvement included in the proposal as a part of the qualifying project.

(c) On receipt of a proposal submitted by a person initiating the approval process under Section 2267.053(a), the responsible governmental entity shall determine whether to accept the proposal for consideration in accordance with Sections 2267.052 and 2267.065 and the guidelines adopted under those sections. A responsible governmental entity that determines not to accept the proposal for consideration shall return the proposal, all fees, and the accompanying documentation to the person submitting the proposal.

(d) The responsible governmental entity may at any time reject a proposal initiated by a person under Section 2267.053(a).

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.052. Adoption of Guidelines by Responsible Governmental Entities.

(a) Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with this chapter. The guidelines must be reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity.

(b) The guidelines for a responsible governmental entity described by Section 2267.001(5)(A) must:

(1) require the responsible governmental entity to:

(A) make a representative of the entity available to meet with persons who are considering submitting a proposal; and

(B) provide notice of the representative's availability;

(2) provide reasonable criteria for choosing among competing proposals;

(3) contain suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement;

(4) allow the responsible governmental entity to accelerate the selection, review, and documentation timelines for proposals involving a qualifying project considered a priority by the entity;

(5) include financial review and analysis procedures that at a minimum consist of:

(A) a cost-benefit analysis;

(B) an assessment of opportunity cost;

(C) consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market; and

(D) consideration of the results of all studies and analyses related to the proposed qualifying project;

(6) allow the responsible governmental entity to consider the nonfinancial benefits of a proposed qualifying project;

(7) ensure that the governmental entity, for a proposed project to improve real property, evaluates design quality, life-cycle costs, and the proposed project's relationship to any relevant comprehensive planning or zoning requirements;

(8) include criteria for:

(A) the qualifying project, including the scope, costs, and duration of the project and the involvement or impact of the project on multiple public entities;

(B) the creation of and the responsibilities of an oversight committee, with members representing the responsible governmental entity,

that acts as an advisory committee to review the terms of any proposed interim or comprehensive agreement; and

(C) compliance with the requirements of Chapter 2268;

(9) require the responsible governmental entity to analyze the adequacy of the information to be released by the entity when seeking competing proposals and require that the entity provide more detailed information, if the entity determines necessary, to encourage competition, subject to Section 2267.053(g);

(10) establish criteria, key decision points, and approvals required to ensure that the responsible governmental entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement; and

(11) require the posting and publishing of public notice of a proposal requesting approval of a qualifying project, including:

(A) specific information and documentation regarding the nature, timing, and scope of the qualifying project, as required under Section 2267.053(a);

(B) a reasonable period, as determined by the responsible governmental entity, of not less than 45 days or more than 180 days, or a longer period specified by the governing body of the responsible governmental entity to accommodate a large-scale project, to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project; and

(C) a requirement for advertising the notice on the governmental entity's Internet website and on TexasOnline or the state's official Internet website.

(c) The guidelines of a responsible governmental entity described by Section 2267.001(5)(B) must include:

(1) the provisions required under Subsection (b); and

(2) a requirement that the governmental entity engage the services of qualified professionals, including an architect, professional engineer, or certified public accountant, not otherwise employed by the governmental entity, to provide independent analyses regarding the specifics, advantages, disadvantages, and long-term and short-term costs of any proposal requesting approval of a qualifying project unless the governing body of the governmental entity determines that the analysis of the proposal is to be performed by similarly qualified employees of the governmental entity.

(c-1) For a proposal with an estimated cost of $5 million or more for the construction or renovation of a structure or project, the analysis conducted under Subsection (c)(2) must include review of the proposal by an architect, a professional engineer, and a certified public accountant not otherwise employed by the governmental entity.

(d) A responsible governmental entity described by Section 2267.001(5)(A) shall submit a copy of the guidelines adopted by the entity under this section to the commission for approval by the commission consistent with the requirements of Subsection (b). The commission shall prescribe the procedure for submitting the guidelines for review under this section. The commission must complete its review of the guidelines not later than the 60th day after the date the commission receives the guidelines and provide written comments and recommendations to the governmental entity to ensure timely compliance with Subsection (b). The governmental entity may not request or consider a proposal for a qualifying project until the guidelines are approved by the commission.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 27, effective June 14, 2013.)

Sec. 2267.053. Approval of Qualifying Projects by Responsible Governmental Entity.

(a) A private entity or other person may submit a proposal requesting approval of a qualifying project by the responsible governmental entity. The proposal must be accompanied by the following, unless waived by the responsible governmental entity:

(1) a topographic map, with a 1:2,000 or other appropriate scale, indicating the location of the qualifying project;

(2) a description of the qualifying project, including:

(A) the conceptual design of any facility or a conceptual plan for the provision of services or technology infrastructure; and

(B) a schedule for the initiation of and completion of the qualifying project that includes the proposed major responsibilities and timeline for activities to be performed by the governmental entity and the person;

(3) a statement of the method the person proposes for securing necessary property interests required for the qualifying project;

(4) information relating to any current plans for the development of facilities or technology

infrastructure to be used by a governmental entity that are similar to the qualifying project being proposed by the person for each affected jurisdiction;

(5) a list of all permits and approvals required for the development and completion of the qualifying project from local, state, or federal agencies and a projected schedule for obtaining the permits and approvals;

(6) a list of any facilities that will be affected by the qualifying project and a statement of the person's plans to accommodate the affected facilities;

(7) a statement on the person's general plans for financing the qualifying project, including the sources of the person's funds and identification of any dedicated revenue source or proposed debt or equity investment for the person;

(8) the name and address of each individual who may be contacted for further information concerning the request;

(9) user fees, lease payments, and other service payments over the term of any applicable interim or comprehensive agreement and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time;

(10) a statement of the specific public purpose served by the qualifying project;

(11) a statement describing the qualifying project's compliance with the responsible governmental entity's best value determination under Subsection (b-1); and

(12) any additional material and information the responsible governmental entity reasonably requests.

(a-1) A responsible governmental entity that accepts an unsolicited proposal for a qualifying project under Subsection (a), in accordance with the requirements of Section 2267.052(b)(11)(B), shall select the contracting person for the project by soliciting additional proposals through a request for qualifications, request for proposals, or invitation to bid.

(b) A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project.

(b-1) A responsible governmental entity shall make a best value determination in evaluating the proposals received and consider the total project cost as one factor in evaluating the proposals. The responsible governmental entity is not required to select the proposal that offers the lowest total project cost and may consider the following factors:

(1) the proposed cost of the qualifying project;

(2) the general reputation, industry experience, and financial capacity of the person submitting a proposal;

(3) the proposed design and overall quality of the qualifying project;

(4) the eligibility of the project for accelerated selection, review, and documentation timelines under the responsible governmental entity's guidelines;

(5) comments from local citizens and affected jurisdictions;

(6) benefits to the public;

(7) the person's good faith effort to comply with the goals of a historically underutilized business plan;

(8) the person's plans to employ local contractors and residents;

(9) for a qualifying project that involves a continuing role beyond design and construction, the person's proposed rate of return and opportunities for revenue sharing;

(10) the relationship and conformity of the qualifying project to a state or local community plan impacted by the qualifying project or to the uses of property surrounding the qualifying project;

(11) the historic significance of the property on which the qualifying project is proposed to be located;

(12) the environmental impact of the qualifying project; and

(13) other criteria that the responsible governmental entity considers appropriate.

(b-2) A responsible governmental entity may approve a qualifying project that the governmental entity determines serves a public purpose. The responsible governmental entity must include in the comprehensive agreement for the qualifying project a written declaration of the specific public purpose served by the project.

(c) The responsible governmental entity may approve as a qualifying project the development or operation of a facility needed by the governmental entity, or the design or equipping of a qualifying project, if the responsible governmental entity determines that the project serves the public purpose of this chapter. The responsible governmental entity may determine that the development or operation of the project as a qualifying project serves the public purpose if:

(1) there is a public need for or benefit derived from the project of the type the person proposes as a qualifying project;

(2) the estimated cost of the project is reasonable in relation to similar facilities; and

(3) the person's plans will result in the timely development or operation of the qualifying project.

(d) The responsible governmental entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal, including reasonable legal fees and fees for financial, technical, and other necessary advisors or consultants.

(e) The approval of a responsible governmental entity described by Section 2267.001(5)(A) is subject to the private entity or other person entering into an interim or comprehensive agreement with the responsible governmental entity.

(f) On approval of the qualifying project, the responsible governmental entity shall establish a date by which activities related to the qualifying project must begin. The responsible governmental entity may extend the date.

(g) The responsible governmental entity shall take action appropriate under Section 552.153 to protect confidential and proprietary information provided by a private entity submitting the proposal and by the contracting person under an agreement.

(h) Before completing the negotiation and entering into an interim or comprehensive agreement, each responsible governmental entity described by Section 2267.001(5)(A) must submit copies of detailed proposals, including drafts of any interim agreement and the comprehensive agreement, to the Partnership Advisory Commission in accordance with Chapter 2268.

(i) This chapter and an interim or comprehensive agreement entered into under this chapter do not enlarge, diminish, or affect any authority a responsible governmental entity has to take action that would impact the debt capacity of this state.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 28, effective June 14, 2013.)

Sec. 2267.0531. [Expires September 2, 2014] Comprehensive Agreement Delayed.

(a) The responsible governmental entity, as defined by Section 2267.001(5)(A), Government Code, excluding institutions of higher education, may not enter into a comprehensive agreement under this chapter before September 1, 2014.

(b) This section expires September 2, 2014.

(Enacted by Acts 2013, 83rd Leg., ch. 713 (H.B. 3436), § 3, effective June 14, 2013.)

Sec. 2267.054. Service Contracts.

A responsible governmental entity may contract with a contracting person for the delivery of services to be provided as part of a qualifying project in exchange for service payments and other consideration as the governmental entity considers appropriate.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.055. Affected Jurisdictions.

(a) A private entity whose proposal, other than a proposal for a service contract, is accepted for conceptual stage evaluation under Section 2267.053 shall notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

(b) Not later than the 60th day after the date an affected jurisdiction receives the notice required by Subsection (a), the affected jurisdiction that is not the responsible governmental entity for the respective qualifying project shall submit in writing to the responsible governmental entity any comments the affected jurisdiction has on the proposed qualifying project and indicate whether the facility or project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan. The responsible governmental entity shall consider the submitted comments before entering into a comprehensive agreement with a contracting person.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 29, effective June 14, 2013.)

Sec. 2267.056. Dedication and Conveyance of Public Property.

(a) After obtaining any appraisal of the property interest that is required under other law in connection with the conveyance, a governmental entity may dedicate any property interest, including land, improvements, and tangible personal property, for public use in a qualifying project if the governmental entity finds that the dedication will serve the public purpose of this chapter by minimizing the cost of a qualifying project to the governmental entity or reducing the delivery time of a qualifying project.

(b) In connection with a dedication under Subsection (a), a governmental entity may convey any property interest, including a license, franchise, easement, or another right or interest the governmental entity considers appropriate, subject to the conditions imposed by general law governing such conveyance and subject to the rights of an existing utility under a license, franchise, easement, or other right under law, to the contracting person for the consideration determined by the governmental en-

tity. The consideration may include the agreement of the contracting person to develop or operate the qualifying project.
(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.057. Powers and Duties of Contracting Person.

(a) The contracting person has:
(1) the power granted by:
(A) general law to a person that has the same form of organization as the contracting person; and
(B) a statute governing the business or activity of the contracting person; and
(2) the power to:
(A) develop or operate the qualifying project; and
(B) collect lease payments, impose user fees subject to Subsection (b), or enter into service contracts in connection with the use of the project.

(b) The contracting person may not impose a user fee or increase the amount of a user fee until the fee or increase is approved by the responsible governmental entity.

(c) The contracting person may own, lease, or acquire any other right to use or operate the qualifying project.

(d) The contracting person may finance a qualifying project in the amounts and on the terms determined by the contracting person. The contracting person may issue debt, equity, or other securities or obligations, enter into sale and leaseback transactions, and secure any financing with a pledge of, security interest in, or lien on any or all of its property, including all of its property interests in the qualifying project.

(e) In operating the qualifying project, the contracting person may:
(1) establish classifications according to reasonable categories for assessment of user fees; and
(2) with the consent of the responsible governmental entity, adopt and enforce reasonable rules for the qualifying project to the same extent as the responsible governmental entity.

(f) The contracting person shall:
(1) develop or operate the qualifying project in a manner that is acceptable to the responsible governmental entity and in accordance with any applicable interim or comprehensive agreement;
(2) subject to Subsection (g), keep the qualifying project open for use by the public at all times, or as appropriate based on the use of the project, after its initial opening on payment of the applicable user fees, lease payments, or service payments;
(3) maintain, or provide by contract for the maintenance or upgrade of, the qualifying project, if required by any applicable interim or comprehensive agreement;
(4) cooperate with the responsible governmental entity to establish any interconnection with the qualifying project requested by the responsible governmental entity; and
(5) comply with any applicable interim or comprehensive agreement and any lease or service contract.

(g) The qualifying project may be temporarily closed because of emergencies or, with the consent of the responsible governmental entity, to protect public safety or for reasonable construction or maintenance activities.

(h) This chapter does not prohibit a contracting person of a qualifying project from providing additional services for the qualifying project to the public or persons other than the responsible governmental entity, provided that the provision of additional service does not impair the contracting person's ability to meet the person's commitments to the responsible governmental entity under any applicable interim or comprehensive agreement.
(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.058. Comprehensive Agreement.

(a) Before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for:
(1) delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible governmental entity, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities;
(2) review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity indicating that the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting person may not be required to provide final design documents for a qualifying project before the execution of a comprehensive agreement;
(3) inspection of the qualifying project by the responsible governmental entity to ensure that

the contracting person's activities are acceptable to the responsible governmental entity in accordance with the comprehensive agreement;

(4) maintenance of a public liability insurance policy, copies of which must be filed with the responsible governmental entity accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible governmental entity and reasonably sufficient to ensure coverage of tort liability to the public and project employees and to enable the continued operation of the qualifying project;

(5) monitoring of the practices of the contracting person by the responsible governmental entity to ensure that the qualifying project is properly maintained;

(6) reimbursement to be paid to the responsible governmental entity for services provided by the responsible governmental entity;

(7) filing of appropriate financial statements on a periodic basis; and

(8) policies and procedures governing the rights and responsibilities of the responsible governmental entity and the contracting person if the comprehensive agreement is terminated or there is a material default by the contracting person, including conditions governing:

(A) assumption of the duties and responsibilities of the contracting person by the responsible governmental entity; and

(B) the transfer or purchase of property or other interests of the contracting person to the responsible governmental entity.

(b) The comprehensive agreement shall provide for any user fee, lease payment, or service payment established by agreement of the parties. In negotiating a user fee under this section, the parties shall establish a payment or fee that is the same for persons using a facility of the qualifying project under like conditions and that will not materially discourage use of the qualifying project. The execution of the comprehensive agreement or an amendment to the agreement is conclusive evidence that the user fee, lease payment, or service payment complies with this chapter. A user fee or lease payment established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, a service payment.

(c) A comprehensive agreement may include a provision that authorizes the responsible governmental entity to make grants or loans to the contracting person from money received from the federal, state, or local government or any agency or instrumentality of the government.

(d) The comprehensive agreement must incorporate the duties of the contracting person under this chapter and may contain terms the responsible governmental entity determines serve the public purpose of this chapter. The comprehensive agreement may contain:

(1) provisions that require the responsible governmental entity to provide notice of default and cure rights for the benefit of the contracting person and the persons specified in the agreement as providing financing for the qualifying project;

(2) other lawful terms to which the contracting person and the responsible governmental entity mutually agree, including provisions regarding unavoidable delays or providing for a loan of public money to the contracting person to develop or operate one or more qualifying projects; and

(3) provisions in which the authority and duties of the contracting person under this chapter cease and the qualifying project is dedicated for public use to the responsible governmental entity or, if the qualifying project was initially dedicated by an affected jurisdiction, to the affected jurisdiction.

(e) Any change in the terms of the comprehensive agreement that the parties agree to must be added to the comprehensive agreement by written amendment.

(f) The comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project.

(g) The comprehensive agreement must provide that a security document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge, or security interest on or against the contracting party's interest may not extend to or affect the fee simple interest of the state in the qualifying project or the state's rights or interests under the comprehensive agreement. Any holder of debt shall acknowledge that the mortgage, pledge, or encumbrance or a lien, charge, or security interest on or against the contracting party's interest is subordinate to the fee simple interest of the state in the qualifying project and the state's rights or interests under the comprehensive agreement.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 30, effective June 14, 2013.)

Sec. 2267.059. Interim Agreement.

Before or in connection with the negotiation of the comprehensive agreement, the responsible governmental entity may enter into an interim agreement with the contracting person proposing the development or operation of the qualifying project. The interim agreement may:

(1) authorize the contracting person to begin project phases or activities for which the contracting person may be compensated relating to the proposed qualifying project, including project planning and development, design, engineering, environmental analysis and mitigation, surveying, and financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities of the qualifying project;

(2) establish the process and timing of the negotiation of the comprehensive agreement; and

(3) contain any other provision related to any aspect of the development or operation of a qualifying project that the parties consider appropriate.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.060. Federal, State, and Local Assistance.

(a) The contracting person and the responsible governmental entity may use any funding resources that are available to the parties, including:

(1) accessing any designated trust funds; and

(2) borrowing or accepting grants from any state infrastructure bank.

(b) The responsible governmental entity may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this chapter and may enter into any contracts required to receive the assistance.

(c) If the responsible governmental entity is a state agency, any money received from the state or federal government or any agency or instrumentality of the state or federal government is subject to appropriation by the legislature.

(d) The responsible governmental entity may determine that it serves the public purpose of this chapter for all or part of the costs of a qualifying project to be directly or indirectly paid from the proceeds of a grant or loan made by the local, state, or federal government or any agency or instrumentality of the government.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.0605. Performance and Payment Bonds Required.

(a) The construction, remodel, or repair of a qualifying project may be performed only after performance and payment bonds for the construction, remodel, or repair have been executed in compliance with Chapter 2253 regardless of whether the qualifying project is on public or private property or is publicly or privately owned.

(b) For purposes of this section, a qualifying project is considered a public work under Chapter 2253 and the responsible governmental entity shall assume the obligations and duties of a governmental entity under that chapter. The obligee under a performance bond under this section may be a public entity, a private person, or an entity consisting of both a public entity and a private person.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.061. Material Default; Remedies.

(a) If the contracting person commits a material default, the responsible governmental entity may assume the responsibilities and duties of the contracting person of the qualifying project. If the responsible governmental entity assumes the responsibilities and duties of the contracting person, the responsible governmental entity has all the rights, title, and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting person to any person providing financing for the project.

(b) A responsible governmental entity that has the power of eminent domain under state law may exercise that power to acquire the qualifying project in the event of a material default by the contracting person. Any person who has provided financing for the qualifying project, and the contracting person to the extent of its capital investment, may participate in the eminent domain proceedings with the standing of a property owner.

(c) The responsible governmental entity may terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity.

(d) The responsible governmental entity may make any appropriate claim under the letters of credit or other security or the performance and payment bonds required by Section 2267.058(a)(1).

(e) If the responsible governmental entity elects to assume the responsibilities and duties for a qualifying project under Subsection (a), the responsible governmental entity may:

(1) develop or operate the qualifying project;

(2) impose user fees;

(3) impose and collect lease payments for the use of the project; and

(4) comply with any applicable contract to provide services.

(f) The responsible governmental entity shall collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the contracting person's obligations to secured parties,

including the maintenance of reserves. The liens shall be correspondingly reduced and, when paid off, released.

(g) Before any payment is made to or for the benefit of a secured party, the responsible governmental entity may use revenue to pay the current operation and maintenance costs of the qualifying project, including compensation to the responsible governmental entity for its services in operating and maintaining the qualifying project. The right to receive any payment is considered just compensation for the qualifying project.

(h) The full faith and credit of the responsible governmental entity may not be pledged to secure any financing of the contracting person that was assumed by the governmental entity when the governmental entity assumed responsibility for the qualifying project.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.062. Eminent Domain.

(a) At the request of the contracting person, the responsible governmental entity may exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the responsible governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose of this chapter.

(b) Any amounts to be paid in any eminent domain proceeding shall be paid by the contracting person.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.063. Affected Facility Owner.

(a) The contracting person and each facility owner, including a public utility, a public service company, or a cable television provider, whose facilities will be affected by a qualifying project shall cooperate fully in planning and arranging the manner in which the facilities will be affected.

(b) The contracting person and responsible governmental entity shall ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.

(c) A governmental entity possessing the power of eminent domain may exercise that power in connection with the relocation of facilities affected by the qualifying project or facilities that must be relocated to the extent that the relocation is necessary or desirable by construction of, renovation to, or improvements to the qualifying project, which includes construction of, renovation to, or improvements to temporary facilities to provide service during the period of construction or improvement. The governmental entity shall exercise its power of eminent domain to the extent required to ensure an affected facility owner does not suffer a disruption of service as a result of the construction or improvement of the qualifying project during the construction or improvement or after the qualifying project is completed or improved.

(d) The contracting person shall pay any amount owed for the crossing, constructing, or relocating of facilities.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.064. Police Powers; Violations of Law.

A peace officer of this state or of any affected jurisdiction has the same powers and jurisdiction within the area of the qualifying project as the officer has in the officer's area of jurisdiction. The officer may access the qualifying project at any time to exercise the officer's powers and jurisdiction.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.065. Procurement Guidelines.

(a) Chapters 2155, 2156, and 2166, any interpretations, rules, or guidelines of the comptroller and the Texas Facilities Commission, and interpretations, rules, or guidelines developed under Chapter 2262 do not apply to a qualifying project under this chapter.

(b) A responsible governmental entity may enter into a comprehensive agreement only in accordance with guidelines that require the contracting person to design and construct the qualifying project in accordance with procedures that do not materially conflict with those specified in:

(1) Section 2166.2531;

(2) Section 44.036, Education Code;

(3) Section 51.780, Education Code;

(4) Section 271.119, Local Government Code; or

(5) Subchapter J, Chapter 271, Local Government Code, for civil works projects as defined by Section 271.181(2), Local Government Code.

(c) This chapter does not authorize a responsible governmental entity or a contracting person to obtain professional services through any process except in accordance with Subchapter A, Chapter 2254.

(d) Identified team members, including the architect, engineer, or builder, may not be substituted or

replaced once a project is approved and an interim or comprehensive agreement is executed without the written approval of the responsible governmental entity.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2267.066. Posting of Proposals; Public Comment; Public Access to Procurement Records; Final Vote.

(a) Not later than the 10th day after the date a responsible governmental entity accepts a proposal submitted in accordance with Section 2267.053(a) or (b), the responsible governmental entity shall provide notice of the proposal as follows:

(1) for a responsible governmental entity described by Section 2267.001(5)(A), by posting the proposal on the entity's Internet website; and

(2) for a responsible governmental entity described by Section 2267.001(5)(B), by:

(A) posting a copy of the proposal on the entity's Internet website; or

(B) publishing in a newspaper of general circulation in the area in which the qualifying project is to be performed a summary of the proposal and the location where copies of the proposal are available for public inspection.

(b) The responsible governmental entity shall make available for public inspection at least one copy of the proposal. This section does not prohibit the responsible governmental entity from posting the proposal in another manner considered appropriate by the responsible governmental entity to provide maximum notice to the public of the opportunity to inspect the proposal.

(c) Trade secrets, proprietary information, financial records, and work product of a proposer are excluded from disclosure under Section 552.101 and may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the proposer After submission by a responsible governmental entity of a detailed qualifying project proposal to the commission, the trade secrets, proprietary information, financial records, and work product of the proposer are not protected from disclosure unless expressly excepted from the requirements of Chapter 552 or considered confidential under other law.

(d) The responsible governmental entity shall hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement. The public hearing shall be held in the area in which the proposed qualifying project is to be performed.

(e) On completion of the negotiation phase for the development of an interim or comprehensive agreement and before an interim agreement or comprehensive agreement is entered into, a responsible governmental entity must make available the proposed agreement in a manner provided by Subsection (a) or (b).

(e-1) After making the proposed comprehensive agreement available as required by Subsection (e), the responsible governmental entity shall hold a public hearing on the final version of the proposed comprehensive agreement and vote on the proposed comprehensive agreement after the hearing. The hearing must be held not later than the 10th day before the date the entity enters into a comprehensive agreement with a contracting person.

(f) A responsible governmental entity that has entered into an interim agreement or comprehensive agreement shall make procurement records available for public inspection on request. For purposes of this subsection, procurement records do not include the trade secrets of the contracting person or financial records, including balance sheets or financial statements of the contracting person, that are not generally available to the public through regulatory disclosure or other means.

(g) Cost estimates relating to a proposed procurement transaction prepared by or for a responsible governmental entity are not open to public inspection.

(h) Any inspection of procurement transaction records under this section is subject to reasonable restrictions to ensure the security and integrity of the records.

(i) This section applies to any accepted proposal regardless of whether the process of bargaining results in an interim or comprehensive agreement.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), §§ 31, 32, effective June 14, 2013.)

CHAPTER 2268
PARTNERSHIP ADVISORY COMMISSION

Subchapter A. General Provisions

Subchapter B. Commission

Section

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2268.001. Definitions.

In this chapter:

(1) "Commission" means the Partnership Advisory Commission.

(2) "Comprehensive agreement" has the meaning assigned by Section 2267.001.

(3) "Detailed proposal" means a proposal for a qualifying project accepted by a responsible governmental entity beyond a conceptual level of review that defines and establishes periods related to fixing costs, payment schedules, financing, deliverables, and project schedule.

(4) "Interim agreement" has the meaning assigned by Section 2267.001.

(5) "Qualifying project" has the meaning assigned by Section 2267.001.

(6) "Responsible governmental entity" has the meaning assigned by Section 2267.001.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2268.002. Applicability.

This chapter applies only to responsible governmental entities described by Section 2267.001(5)(A).

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

SUBCHAPTER B
COMMISSION

Sec. 2268.051. Establishment of Commission.

The Partnership Advisory Commission is an advisory commission in the legislative branch that advises responsible governmental entities described by Section 2267.001(5)(A) on proposals received under Chapter 2267.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2268.052. Composition and Terms.

(a) The commission consists of the following 11 members:

(1) the chair of the House Appropriations Committee or the chair's designee;

(2) three representatives appointed by the speaker of the house of representatives;

(3) the chair of the Senate Finance Committee or the chair's designee;

(4) three senators appointed by the lieutenant governor; and

(5) three representatives of the executive branch, appointed by the governor.

(b) The legislative members serve on the commission until the expiration of their terms of office or until their successors qualify.

(c) The members appointed by the governor serve at the will of the governor.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2268.053. Presiding Officer.

The members of the commission shall elect from among the legislative members a presiding officer and an assistant presiding officer to serve two-year terms.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2268.054. Compensation; Reimbursement.

A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for all reasonable and necessary expenses incurred in performing duties as a member.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2268.055. Meetings.

(a) The commission shall hold meetings quarterly or on the call of the presiding officer.

(b) Commission meetings are subject to Chapter 551.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 34, effective June 14, 2013.)

Sec. 2268.056. Administrative, Legal, Research, Technical, and Other Support.

(a) The legislative body that the presiding officer serves shall provide administrative staff support for the commission.

(b) The Texas Legislative Council shall provide legal, research, and policy analysis services to the commission.

(c) The staffs of the House Appropriations Committee, Senate Finance Committee, and comptroller shall provide technical assistance.

(d) The Texas Facilities Commission, using the qualifying project fees authorized under Section 2165.353, shall provide, on a cost recovery basis, professional services of its architectural, engineering, and real estate staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), as necessary to support the Partnership Advisory Commission in its review and evaluation of proposals, including financial and risk allocation analysis and ongoing contract performance monitoring of qualifying projects. The Texas Facilities Commission shall assign staff and contracted advisors and consultants necessary to perform the duties required by this subsection.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 35, effective June 14, 2013.)

Sec. 2268.057. Commission Proceedings.

A copy of the proceedings of the commission shall be filed with the legislative body that the presiding officer serves.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

Sec. 2268.058. Submission of Detailed Proposals for Qualifying Projects; Exemption; Commission Review.

(a) Before beginning to negotiate an interim or comprehensive agreement, each responsible governmental entity receiving a detailed proposal for a qualifying project must provide copies of the proposal to:

(1) the presiding officer of the commission; and

(2) the chairs of the House Appropriations Committee and Senate Finance Committee or their designees.

(b) The following qualifying projects are not subject to review by the commission:

(1) any proposed qualifying project with a total cost of less than $5 million; and

(2) any proposed qualifying project with a total cost of more than $5 million but less than $50 million for which money has been specifically appropriated as a public-private partnership in the General Appropriations Act.

(c) The commission may undertake additional reviews of any qualifying project that will be completed in phases and for which an appropriation has not been made for any phase other than the current phase of the project.

(d) [Repealed by Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), § 38, effective June 14, 2013.]

(e) The commission in a public hearing by majority vote of the members present shall approve or disapprove each detailed proposal submitted to the commission for review and may provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the commission receives complete copies of the detailed proposal. If the commission does not provide its findings or recommendations to the responsible governmental entity by that date, the commission is considered to not have made any findings or recommendations on the proposal.

(f) The responsible governmental entity on request of the commission shall provide any additional information regarding a qualifying project reviewed by the commission if the information is available to or can be obtained by the responsible governmental entity.

(g) The commission shall include in any findings and recommendations provided to the responsible governmental entity:

(1) a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt, taking into consideration the specific findings of the comptroller with respect to the recommendation;

(2) an analysis of the potential financial impact of the qualifying project;

(3) a review of the policy aspects of the detailed proposal and the qualifying project; and

(4) proposed general business terms.

(h) Review by the commission does not constitute approval of any appropriations necessary to implement a subsequent interim or comprehensive agreement.

(i) The responsible governmental entity may not negotiate an interim or comprehensive agreement for a detailed proposal that has been disapproved by the commission.

(j) Not later than the 30th day before the date a comprehensive or interim agreement is executed, the responsible governmental entity shall submit to the commission and the chairs of the House Appropriations Committee and Senate Finance Committee or their designees:

(1) a copy of the proposed interim or comprehensive agreement; and

(2) a report describing the extent to which the commission's recommendations were addressed in the proposed interim or comprehensive agreement.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1153 (S.B. 211), §§ 36, 38, effective June 14, 2013.)

Sec. 2268.059. Confidentiality of Certain Records Submitted to Commission.

Records and information afforded protection under Section 552.153 that are provided by a responsible governmental entity to the commission shall continue to be protected from disclosure when in the possession of the commission.

(Enacted by Acts 2011, 82nd Leg., ch. 1334 (S.B. 1048), § 1, effective September 1, 2011.)

CHAPTER 2269
CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS

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SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2269.001. Definitions.

In this chapter:

(1) "Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

(2) "Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

(3) "Facility" means, unless otherwise specifically provided, an improvement to real property.

(4) "General conditions" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

(5) "General contractor" means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for constructing, rehabilitating, altering, or repairing all or part of a facility at the contracted price.

(6) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.001).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.002. Applicability of Chapter to Governmental Entities Engaged in Public Works.

This chapter applies to a public work contract made by a governmental entity authorized by state law to make a public work contract, including:

(1) a state agency as defined by Section 2151.002, including the Texas Facilities Commission;

(2) a local government, including:

(A) a county;

(B) a municipality;

(C) a school district;

(D) any other special district or authority, including a hospital district, a defense base development authority established under Chapter 379B, Local Government Code, and a conservation and reclamation district, including a river authority or any other type of water district; and

(E) any other political subdivision of this state;

(3) a public junior college as defined by Section 61.003, Education Code; and

(4) a board of trustees governed by Chapter 54, Transportation Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.002).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.003. Conflict of Laws; Requirement to Follow Procedures of this Chapter.

(a) Except as provided by this section, this chapter prevails over any other law relating to a public work contract.

(b) This chapter does not prevail over a conflicting provision in a law relating to contracting with a historically underutilized business.

(c) This chapter does not prevail over a conflicting provision in an ordinance or resolution passed by the governing body of a municipally owned electric utility in a procedure described by Section 252.022(c), Local Government Code, that:

(1) requires the use of competitive bidding or competitive sealed proposals; or

(2) prescribes a design-build procurement procedure that conflicts with this chapter.

(d) This chapter does not prevail over any law, rule, or regulation relating to competitive bidding or competitive sealed proposals for construction services, or to procurement of construction services pursuant to Section 49.273, Water Code, that applies to a river authority or to a conservation and reclamation district created under Section 59, Article XVI, Texas Constitution, unless the governing body of the river authority or conservation and reclamation district elects to permit this chapter to supersede the law, rule, or regulation.

(e) This chapter does not prevail over a conflicting provision in a regulation that prescribes procurement procedures for construction services that is adopted by the governing board of a river authority or of a conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, that owns electric generation capacity in excess of 2,500 megawatts, except with respect to Subchapter H.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.003).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.004. Exemption: Texas Department of Transportation; Highway Projects.

This chapter does not apply to:

(1) a contract entered into by the Texas Department of Transportation; or

(2) a project that receives money from a state or federal highway fund.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.004).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.005. Applicability: Institutions of Higher Education.

(a) In this section, "institution of higher education," "public junior college," and "university system" have the meanings assigned by Section 61.003, Education Code.

(b) This chapter applies to a public junior college but does not apply to:

(1) any other institution of higher education; or

(2) a university system.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.005).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.006. Exemption: Regional Tollway Authorities.

This chapter does not apply to a regional tollway authority under Chapter 366, Transportation Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.006).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.007. Exemption: Certain Local Government Corporation Improvement Projects.

This chapter does not apply to an improvement project undertaken by or through a local government corporation exempt from competitive bidding requirements or restrictions under Section 431.110, Transportation Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.007).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.008. Exemption: Regional Mobility Authorities.

This chapter does not apply to a regional mobility authority under Chapter 370, Transportation Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.008).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.009. Exemption: County Toll Authorities.

This chapter does not apply to a project of a county under Chapter 284, Transportation Code, unless the county adopts an order electing to be governed by this chapter for a project to be developed by the county under Chapter 284.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.009).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.010. Exemption: Coordinated County Transportation Authority.

This chapter does not apply to a coordinated county transportation authority under Chapter 460, Transportation Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.010).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER B
GENERAL POWERS AND DUTIES

Sec. 2269.051. Rules.

A governmental entity may adopt rules as necessary to implement this chapter.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.051).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.052. Notice Requirements.

(a) A governmental entity shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.

(b) For a contract entered into by a governmental entity under a method provided by this chapter, the governmental entity shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

(c) For a contract entered into by a municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority under any of the methods provided by this chapter, the municipality, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in that county, the notice shall be published in a newspaper of general circulation in the county nearest the county seat of the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located. In a two-step procurement process, the time and place the second step bids, proposals, or responses will be received are not required to be published separately.

(d) For a contract entered into by a county under any of the methods provided by this chapter, the county shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened. The notice must be published in a newspaper of general circulation in the county once each week for at least two weeks before the deadline for receiving bids, proposals, or responses. If there is not a newspaper of general circulation in the county, the notice shall be:

(1) posted at the courthouse door of the county; and

(2) published in a newspaper of general circulation in the nearest county.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.052).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.053. Delegation of Authority.

(a) The governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other person.

(b) The governmental entity shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated under Subsection (a) by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.053).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.054. Right to Work.

(a) This section applies to a governmental entity when the governmental entity is engaged in:

(1) procuring goods or services under this chapter;

(2) awarding a contract under this chapter; or

(3) overseeing procurement or construction for a public work or public improvement under this chapter.

(b) In engaging in an activity to which this section applies, a governmental entity:

(1) may not consider whether a person is a member of or has another relationship with any organization; and

(2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.054).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.055. Criteria to Consider.

(a) In determining the award of a contract under this chapter, the governmental entity may consider:

(1) the price;

(2) the offeror's experience and reputation;

(3) the quality of the offeror's goods or services;

(4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;

(5) the offeror's safety record;

(6) the offeror's proposed personnel;

(7) whether the offeror's financial capability is appropriate to the size and scope of the project; and

(8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

(b) In determining the award of a contract under this chapter, the governmental entity shall:

(1) consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and

(2) consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.055).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.056. Using Method Other Than Competitive Bidding for Construction Services; Evaluation of Proposals; Criteria.

(a) The governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity.

(b) The governmental entity shall base its selection among offerors on applicable criteria listed for the particular method used. The governmental entity shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors, and the applicable weighted value for each criterion.

(c) The governmental entity shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.056).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.057. Architect or Engineer Services.

(a) An architect or engineer required to be selected or designated under this chapter has full responsibility for complying with Chapter 1051 or 1001, Occupations Code, as applicable.

(b) If the selected or designated architect or engineer is not a full-time employee of the governmental entity, the governmental entity shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.057).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.058. Use of Other Professional Services.

(a) Independently of the contractor, construction manager-at-risk, or design-build firm, the governmental entity shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the governmental entity.

(b) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.058).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.059. Sealed Bids, Proposals, or Qualifications Required.

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.059).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER C
COMPETITIVE BIDDING METHOD

Sec. 2269.101. Contracts for Facilities: Competitive Bidding.

(a) In this chapter, "competitive bidding" is a procurement method by which a governmental entity contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

(b) Except as otherwise provided by this chapter or other law, a governmental entity may contract for

the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.101).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.102. Use of Architect or Engineer.

The governmental entity shall select or designate an architect or engineer in accordance with Chapter 1051 or 1001, Occupations Code, as applicable, to prepare the construction documents required for a project to be awarded by competitive bidding.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.102).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.103. Preparation of Request.

The governmental entity shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.103).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.104. Evaluation of Offerors.

The governmental entity shall receive, publicly open, and read aloud the names of the offerors and their bids.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.104).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.105. Selection of Offeror.

Not later than the seventh day after the date the contract is awarded, the governmental entity shall document the basis of its selection and shall make the evaluations public.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.105).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately

before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.106. Applicability of Other Competitive Bidding Law to Certain Local Governmental Entities.

Except as otherwise specifically provided by this section, Subchapter B, Chapter 271, Local Government Code, does not apply to a competitive bidding process conducted under this chapter. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process conducted under this chapter by a governmental entity as defined by Section 271.021, Local Government Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.106).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER D
COMPETITIVE SEALED PROPOSAL METHOD

Sec. 2269.151. Contracts for Facilities: Competitive Sealed Proposals.

(a) In this chapter, "competitive sealed proposals" is a procurement method by which a governmental entity requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.

(b) In selecting a contractor through competitive sealed proposals, a governmental entity shall follow the procedures provided by this subchapter.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.151).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.152. Use of Architect or Engineer.

The governmental entity shall select or designate an architect or engineer to prepare construction documents for the project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.152).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.153. Preparation of Request.

The governmental entity shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to respond to the request.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.153).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.154. Evaluation of Offerors.

(a) The governmental entity shall receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors.

(b) Not later than the 45th day after the date on which the proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the published selection criteria.
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.154).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.155. Selection of Offeror.

(a) The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on:

(1) the selection criteria in the request for proposal and the weighted value for those criteria in the request for proposal; and

(2) its ranking evaluation.

(b) The governmental entity shall first attempt to negotiate a contract with the selected offeror. The governmental entity and its architect or engineer may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.155).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER E
CONSTRUCTION MANAGER-AGENT METHOD

Sec. 2269.201. Contracts for Facilities: Construction Manager-Agent.

(a) In this chapter, the "construction manager-agent method" is a delivery method by which a governmental entity contracts with a construction manager-agent to provide consultation or administrative services during the design and construction phase and to manage multiple contracts with various construction prime contractors.

(b) A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the governmental entity by providing construction administration and management services described by Subsection (a) for the construction, rehabilitation, alteration, or repair of a facility.

(c) A governmental entity may retain a construction manager-agent for assistance in the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.201).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.202. Contract Provisions of Construction Manager-Agent.

The contract between the governmental entity and the construction manager-agent may require the construction manager-agent to provide:

(1) administrative personnel;

(2) equipment necessary to perform duties under this subchapter;

(3) on-site management; and

(4) other services specified in the contract.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.202).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.203. Limits on Construction Manager-Agent.

A construction manager-agent may not:

(1) self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility;

(2) be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility; or

(3) provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.203).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.204. Fiduciary Capacity of Construction Manager-Agent.

A construction manager-agent represents the governmental entity in a fiduciary capacity.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.204).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.205. Use of Architect or Engineer.

(a) On or before the selection of a construction manager-agent, the governmental entity shall select or designate an architect or engineer in accordance with Chapter 1051 or 1001, Occupations Code, as applicable, to prepare the construction documents for the project.

(b) The governmental entity's architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this subchapter. This subsection does not prohibit the governmental entity's architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws.

(c) To the extent that the construction manager-agent's services are defined as part of the practice of architecture or engineering under Chapter 1051 or 1001, Occupations Code, those services must be conducted by a person licensed under the applicable chapter.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.205).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.206. Selection of Contractors.

A governmental entity using the construction manager-agent method shall procure, in accordance with applicable law and in any manner authorized by this chapter, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the governmental entity in accordance with applicable laws.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.206).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.207. Selection of Construction Manager-Agent.

A governmental entity shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected under Section 2254.004.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.207).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.208. Insurance.

A construction manager-agent selected under this subchapter shall maintain professional liability or errors and omissions insurance in the amount of at least $1 million for each occurrence.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.208).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER F
CONSTRUCTION MANAGER-AT-RISK METHOD

Sec. 2269.251. Contracts for Facilities: Construction Manager-at-Risk.

(a) In this chapter, the "construction manager-at-risk method" is a delivery method by which a governmental entity contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

(b) A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the governmental entity regarding construction during and after the design of the facility. The contracted price may be a guaranteed maximum price.

(c) A governmental entity may use the construction manager-at-risk method in selecting a general contractor for the construction, rehabilitation, alteration, or repair of a facility only as provided by this subchapter.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23),

effective September 1, 2013 (renumbered from Sec. 2267.251).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.252. Use of Architect or Engineer.

(a) On or before the selection of a construction manager-at-risk, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

(b) The governmental entity's architect or engineer for a project may not serve, alone or in combination with another person, as the construction manager-at-risk unless the architect or engineer is hired to serve as the construction manager-at-risk under a separate or concurrent selection process conducted in accordance with this subchapter. This subsection does not prohibit the governmental entity's architect or engineer from providing customary construction phase services under the architect's or engineer's original professional service agreement in accordance with applicable licensing laws.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.252).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.253. Selection Process.

(a) The governmental entity shall select the construction manager-at-risk in a one-step or two-step process.

(b) The governmental entity shall prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications, in the case of a two-step process, that includes:

(1) a statement as to whether the selection process is a one-step or two-step process;

(2) general information on the project site, project scope, schedule, selection criteria and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and

(3) other information that may assist the governmental entity in its selection of a construction manager-at-risk.

(c) The governmental entity shall state the selection criteria in the request for proposals or qualifications.

(d) If a one-step process is used, the governmental entity may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions.

(e) If a two-step process is used, the governmental entity may not request fees or prices in step one. In step two, the governmental entity may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and prices for fulfilling the general conditions.

(f) At each step, the governmental entity shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the governmental entity shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened.

(g) Not later than the 45th day after the date on which the final proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.253).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.'

Sec. 2269.254. Selection of Offeror.

(a) The governmental entity shall select the offeror that submits the proposal that offers the best

value for the governmental entity based on the published selection criteria and on its ranking evaluation.

(b) The governmental entity shall first attempt to negotiate a contract with the selected offeror.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(d) Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the rankings determined under Section 2269.253(g) public.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(11), effective September 1, 2013 (renumbered from Sec. 2267.254).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.255. Performance of Work.

(a) A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions.

(b) A construction manager-at-risk may seek to perform portions of the work itself if:

(1) the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

(2) the governmental entity determines that the construction manager-at-risk's bid or proposal provides the best value for the governmental entity.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.255).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.256. Review of Bids or Proposals.

(a) The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or governmental entity. All bids or proposals shall be made available to the governmental entity on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals.

(b) If the construction manager-at-risk reviews, evaluates, and recommends to the governmental entity a bid or proposal from a trade contractor or subcontractor but the governmental entity requires another bid or proposal to be accepted, the governmental entity shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of the governmental entity's requirement that another bid or proposal be accepted.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.256).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.257. Default; Performance of Work.

If a selected trade contractor or subcontractor defaults in the performance of its work or fails to

execute a subcontract after being selected in accordance with this subchapter, the construction manager-at-risk may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.257).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.258. Performance or Payment Bond.

(a) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the request for proposals or qualifications.

(b) The construction manager-at-risk shall deliver the bonds not later than the 10th day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.258).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER G BUILDING USING DESIGN-BUILD METHOD

Sec. 2269.301. Contracts for Facilities: Design-Build.

In this chapter, "design-build" is a project delivery method by which a governmental entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.301).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.302. Applicability of Subchapter to Buildings; Exceptions.

This subchapter applies only to a facility that is a building or an associated structure, including an electric utility structure. This subchapter does not apply to:

(1) a highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(2) a building or structure that is incidental to a project that is primarily a civil engineering construction project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.302).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.303. Contracts for Buildings: Design-Build.

A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a building or associated structure only as provided by this subchapter. In using that method, the governmental entity shall enter into a single contract with a design-build firm for the design and construction of the building or associated structure.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.303).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.304. Design-Build Firms.

A design-build firm under this subchapter must be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.304).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.305. Use of Architect or Engineer As Independent Representative.

The governmental entity shall select or designate an architect or engineer independent of the design-build firm to act as the governmental entity's representative for the duration of the project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.305).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.306. Preparation of Request.

(a) The governmental entity shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria and the weighted value for each criterion, and other information that may assist potential design-build firms in submitting proposals for the project.

(b) The governmental entity shall also prepare the design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires architectural or engineering services that constitute the practice of architecture within the meaning of Chapter 1051, Occupations Code, or the practice of engineering within the meaning of Chapter 1001, Occupations Code, those services shall be provided in accordance with the applicable law.

(c) The design criteria package must include a set of documents that provides sufficient information, including criteria for selection, to permit a design-build firm to prepare a response to the governmental entity's request for qualifications and to provide any additional information requested. The design criteria package must specify criteria the governmental entity considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material

requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, and any other requirement.

(d) The governmental entity may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a request for qualifications.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.306).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.307. Evaluation of Design-Build Firms.

(a) For each design-build firm that responded to the request for qualifications, the governmental entity shall evaluate the firm's experience, technical competence, and capability to perform, the past performance of the firm and members of the firm, and other appropriate factors submitted by the firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted.

(b) Each firm must certify to the governmental entity that each architect or engineer that is a member of the firm was selected based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.

(c) The governmental entity shall qualify a maximum of five responders to submit proposals that contain additional information and, if the governmental entity chooses, to interview for final selection.

(d) The governmental entity shall evaluate the additional information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview.

(e) The governmental entity may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, or costing methodology. As used in this subsection, "costing methodology" means an offeror's policies on subcontractor markup, definition of general conditions, range of cost for general conditions, policies on retainage, policies on contingencies, discount for prompt payment, and expected staffing for administrative duties. The term does not include a guaranteed maximum price or bid for overall design or construction.

(f) The governmental entity shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.307).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.308. Selection of Design-Build Firm.

(a) The governmental entity shall select the design-build firm that submits the proposal offering the best value for the governmental entity on the basis of the published selection criteria and on its ranking evaluations.

(b) The governmental entity shall first attempt to negotiate a contract with the selected firm.

(c) If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the governmental entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

(d) Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the rankings determined under Section 2269.307(f) public.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(12), effective September 1, 2013 (renumbered from Sec. 2267.308).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.309. Submission of Design After Selection.

After selection of the design-build firm, that firm's architects or engineers shall submit all design elements for review and determination of scope compliance to the governmental entity or the governmental entity's architect or engineer before or concurrently with construction.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.309).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.310. Final Construction Documents.

The design-build firm shall supply a set of construction documents for the completed project to the governmental entity at the conclusion of construction. The documents must note any changes made during construction.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.310).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.311. Performance or Payment Bond.

(a) A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm under this subchapter.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time the design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the design criteria package.

(c) The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before construction begins.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.311).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER H
DESIGN-BUILD PROCEDURES FOR CERTAIN CIVIL WORKS PROJECTS

Sec. 2269.351. Definitions.

In this subchapter:

(1) "Civil works project" means:

(A) roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, desalination projects, wharves, docks, airport runways and taxiways, storm drainage and flood control projects, or transit projects;

(B) types of projects or facilities related to those described by Paragraph (A) and associated with civil engineering construction; and

(C) buildings or structures that are incidental to projects or facilities that are described by Paragraphs (A) and (B) and that are primarily civil engineering construction projects.

(2) "Design-build firm" means a partnership, corporation, or other legal entity or team that includes an engineer and a construction contractor qualified to engage in civil works construction in Texas.

(3) "Design criteria package" means a set of documents that:

(A) provides sufficient information to convey the intent, goals, criteria, and objectives of the civil works project; and

(B) permits a design-build firm to:

(i) assess the scope of work and the risk involved; and

(ii) submit a proposal on the project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.351).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.352. Applicability.

This subchapter applies to a governmental entity that:

(1) has a population of more than 100,000 within the entity's geographic boundary or service area; or

(2) is a board of trustees governed by Chapter 54, Transportation Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.352).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.353. Contracts for Civil Works Projects: Design-Build.

(a) A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a civil works project. In using this method and in entering into a contract for the services of a design-build firm, the contracting governmental entity and the design-build firm shall follow the procedures provided by this subchapter.

(b) A contract for a project under this subchapter may cover only a single integrated project. A governmental entity may not enter into a contract for aggregated projects at multiple locations. For purposes of this subsection:

(1) if a metropolitan transit authority created under Chapter 451, Transportation Code, enters into a contract for a project involving a linear transit project with multiple stops along the project route for boarding passengers, created under Chapter 451, Transportation Code, the linear transit project is a single integrated project; and

(2) a water treatment plant, including a desalination plant, that includes treatment facilities, well fields, and pipelines is a single integrated project.

(c) A governmental entity shall use the following criteria as a minimum basis for determining the circumstances under which the design-build method is appropriate for a project:

(1) the extent to which the entity can adequately define the project requirements;

(2) the time constraints for the delivery of the project;

(3) the ability to ensure that a competitive procurement can be held; and

(4) the capability of the entity to manage and oversee the project, including the availability of experienced personnel or outside consultants who are familiar with the design-build method of project delivery.

(d) [Repealed by Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 11, effective September 1, 2013.]
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.353); am. Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), §§ 3, 11, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.354. Limitation on Number of Projects.

(a) After August 31, 2013:

(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts; and

(3) a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than four projects in any fiscal year.

(b) For purposes of determining the number of eligible projects under this section, a municipally owned water utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.354); am. Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 4, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1356 (S.B. 1430), § 1, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.355. Use of Engineer.

(a) The governmental entity shall select or designate an engineer who is independent of the design-build firm to act as its representative for the procurement process and for the duration of the work on the civil works project. The selected or designated engineer has full responsibility for complying with Chapter 1001, Occupations Code.

(b) If the engineer is not a full-time employee of the governmental entity, the governmental entity shall select the engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.
(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.355).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.356. Use of Other Professional Services.

(a) The governmental entity shall provide or contract for, independently of the design-build firm, the

following services as necessary for the acceptance of the civil works project by the entity:

(1) inspection services;

(2) construction materials engineering and testing; and

(3) verification testing services.

(b) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.356).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.357. Request for Qualifications.

(a) The governmental entity shall prepare a request for qualifications that includes:

(1) information on the civil works project site;

(2) project scope;

(3) project budget;

(4) project schedule;

(5) criteria for selection under Section 2269.359 and the weighting of the criteria; and

(6) other information that may assist potential design-build firms in submitting proposals for the project.

(b) The governmental entity shall also prepare a design criteria package as described by Section 2269.358.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(14), effective September 1, 2013 (renumbered from Sec. 2267.357).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.358. Contents of Design Criteria Package.

A design criteria package may include, as appropriate:

(1) budget or cost estimates;

(2) information on the site;

(3) performance criteria;

(4) special material requirements;

(5) initial design calculations;

(6) known utilities;

(7) capacity requirements;

(8) quality assurance and quality control requirements;

(9) the type, size, and location of structures; and

(10) notice of any ordinances, rules, or goals adopted by the governmental entity relating to awarding contracts to historically underutilized businesses.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.358).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.359. Evaluation of Design-Build Firms.

(a) The governmental entity shall receive proposals and shall evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted at this stage.

(b) Each offeror must:

(1) select or designate each engineer that is a member of its team based on demonstrated competence and qualifications, in the manner provided by Section 2254.004; and

(2) certify to the governmental entity that each selection or designation was based on demonstrated competence and qualifications, in the manner provided by Section 2254.004.

(c) The governmental entity shall qualify offerors to submit additional information and, if the entity chooses, to interview for final selection.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.359).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.360. Selection of Design-Build Firm.

The governmental entity shall select a design-build firm using a combination of technical and cost proposals as provided by Section 2269.361.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(15), effective September 1, 2013 (renumbered from Sec. 2267.360).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.361. Procedures for Combination of Technical and Cost Proposals.

(a) A governmental entity shall request proposals from design-build firms identified under Section 2269.359(c). A firm must submit a proposal not later than the 180th day after the date the governmental entity makes a public request for the proposals from the selected firms. The request for proposals must include:

(1) a design criteria package;

(2) if the project site is identified, a geotechnical baseline report or other information that provides the design-build firm minimum geotechnical design parameters to submit a proposal;

(3) detailed instructions for preparing the technical proposal and the items to be included, including a description of the form and level of completeness of drawings expected; and

(4) the relative weighting of the technical and price proposals and the formula by which the proposals will be evaluated and ranked.

(b) The technical proposal is a component of the proposal under this section.

(c) Each proposal must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:

(1) project approach;

(2) anticipated problems;

(3) proposed solutions to anticipated problems;

(4) ability to meet schedules;

(5) conceptual engineering design; and

(6) other information requested by the governmental entity.

(e) The governmental entity shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The governmental entity may reject as nonresponsive any firm that makes a significant change to the composition of its firm as initially submitted. The governmental entity shall subsequently open, evaluate, and score the cost proposals from firms that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The governmental entity shall select the design-build firm in accordance with the formula provided in the request for proposals.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(16), effective September 1, 2013 (renumbered from Sec. 2267.361).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately

before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.3615. Identification of Project Team.

(a) A governmental entity may require a design-build firm responding to a request for detailed proposals to identify companies that will:

(1) fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and

(2) serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.

(b) If a design-build firm required to identify companies under Subsection (a) is selected for a design-build agreement, the firm may not make changes to the identified companies unless an identified company:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the design-build firm;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(c) If the design-build firm makes team changes in violation of Subsection (b), any cost savings resulting from the change accrue to the governmental entity and not to the design-build firm.

(Enacted by Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 5(b), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1127 (H.B. 1050), § 10 provides: "The changes in law made by this Act to Sections 2267.3615 and 2269.3615, Government Code, as added by this Act, apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2013]."

Sec. 2269.362. Negotiation.

After selecting the highest-ranked design-build firm under Section 2269.361, the governmental entity shall first attempt to negotiate a contract with the selected firm. If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(17), effective September 1, 2013 (renumbered from Sec. 2267.362).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.363. Assumption of Risks.

The governmental entity shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the governmental entity;

(B) unknown or differing site conditions unless otherwise provided by the governmental entity in the request for proposals and final contract;

(C) regulatory permitting, if the governmental entity is responsible for those risks and costs by law or contract; and

(D) natural disasters and other force majeure events unless otherwise provided by the governmental entity in the request for proposals and final contract; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.363).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.364. Stipend Amount for Unsuccessful Offerors.

(a) Unless a stipend is paid under Subsection (c), the design-build firm retains all rights to the work product submitted in a proposal. The governmental entity may not release or disclose to any person, including the successful offeror, the work product contained in an unsuccessful proposal. The governmental entity shall return all copies of the proposal and other information submitted to an unsuccessful offeror. The governmental entity or its agents may not make use of any unique or nonordinary design element, technique, method, or process contained in the unsuccessful proposal that was not also contained in the successful proposal at the time of the original submittal, unless the entity acquires a license from the unsuccessful offeror.

(b) A violation of this section voids the contract for the project entered into by the governmental entity. The governmental entity is liable to any unsuccessful offeror, or any member of the design-build team or its assignee, for one-half of the cost savings associated with the unauthorized use of the work product of the unsuccessful offeror. Any interested party may bring an action for an injunction, declaratory relief, or damages for a violation of this section. A party who prevails in an action under this subsection is entitled to reasonable attorney's fees as approved by the court.

(c) The governmental entity may offer an unsuccessful design-build firm that submits a response to the entity's request for additional information under Section 2269.361 a stipend for preliminary engineering costs associated with the development of the proposal. The stipend must be one-half of one percent of the contract amount and must be specified in the initial request for proposals. If the offer is accepted and paid, the governmental entity may make use of any work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the governmental entity of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the entity and does not confer liability on the recipient of the stipend under this subsection.

(d) Notwithstanding other law, including Chapter 552, work product contained in an unsuccessful proposal submitted and rejected under this subchapter is confidential and may not be released unless a stipend offer has been accepted and paid as provided by Subsection (c).

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(18), effective September 1, 2013 (renumbered from Sec. 2267.364).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.365. Completion of Design.

(a) Following selection of a design-build firm under this subchapter, the firm's engineers shall submit all design elements for review and determination of scope compliance to the governmental entity before or concurrently with construction.

(b) An appropriately licensed design professional shall sign and seal construction documents before the documents are released for construction.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.365).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.366. Final Construction Documents.

At the conclusion of construction, the design-build firm shall supply to the governmental entity a record set of construction documents for the project prepared as provided by Chapter 1001, Occupations Code.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.366).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.367. Performance or Payment Bond.

(a) A performance or payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(b) If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, if commercially available and practical, as specified in the design criteria package.

(c) If the governmental entity awards a design-build contract under Section 2269.362, the design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before the commencement of construction.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), §§ 22.001(23), 22.002(19), effective September 1, 2013 (renumbered from Sec. 2267.367).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER I
JOB ORDER CONTRACTS METHOD

Sec. 2269.401. Job Order Contracting.

In this chapter, "job order contracting" is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.401).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.402. Applicability of Subchapter to Buildings; Exceptions.

This subchapter applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building. This subchapter does not apply to:

(1) a highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(2) a building or structure that is incidental to a project that is primarily a civil engineering construction project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.402).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.403. Requirements for Job Order Contracts for Facilities.

(a) A governmental entity may award job order contracts for the maintenance, repair, alteration, renovation, remediation, or minor construction of a facility if:

(1) the work is of a recurring nature but the delivery times are indefinite; and

(2) indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

(b) The governmental entity shall establish the maximum aggregate contract price when it advertises the proposal.

(c) The governing body of a governmental entity shall approve each job, task, or purchase order that exceeds $500,000.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.403).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.404. Contractual Unit Prices.

The governmental entity may establish contractual unit prices for a job order contract by:

(1) specifying one or more published construction unit price books and the applicable divisions or line items; or

(2) providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.404).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.405. Competitive Sealed Proposal Method.

(a) A governmental entity may use the competitive sealed proposal method under Subchapter D for job order contracts.

(b) The governmental entity shall advertise for, receive, and publicly open sealed proposals for job order contracts.

(c) The governmental entity may require offerors to submit information in addition to rates, including experience, past performance, and proposed personnel and methodology.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.405).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.406. Awarding of Job Order Contracts.

The governmental entity may award job order contracts to one or more job order contractors in connection with each solicitation of proposals.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.406).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective

date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.407. Use of Job Order Contract.

A job order contract may be used to accomplish work only for the governmental entity that awards the contract unless:

(1) the solicitation for the job order contract and the contract specifically provide for use by other persons; or

(2) the governmental entity enters into an interlocal agreement that provides otherwise.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.407).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.408. Use of Architect or Engineer.

(a) If a job order contract or an order issued under the contract requires architectural or engineering services that constitute the practice of architecture within the meaning of Chapter 1051, Occupations Code, or the practice of engineering within the meaning of Chapter 1001, Occupations Code, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

(b) Subsection (a) does not apply to a job order contract or an order issued under the contract for industrialized housing, industrialized buildings, or relocatable educational facilities subject to and approved under Chapter 1202, Occupations Code, if the contractor employs the services of an architect or engineer who approves the documents for the project.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.408).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.409. Job Order Contract Term.

The base term for a job order contract may not exceed two years. The governmental entity may renew the contract annually for not more than three additional years.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.409).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.410. Job Orders.

(a) An order for a job or project under a job order contract must be signed by the governmental entity's representative and the contractor.

(b) The order may be:

(1) a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities; or

(2) a unit price order based on the quantities and line items delivered.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.410).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications,

or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.411. Payment and Performance Bonds.

The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.411).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

SUBCHAPTER J ENFORCEMENT

Sec. 2269.451. Void Contract.

A contract, including a job order, entered into in violation of this chapter is voidable as against public policy.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.451).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 2269.452. Declaratory or Injunctive Relief.

(a) This chapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date on which the contract is awarded.

(b) This section does not apply to enforcement of a contract entered into by a state agency. In this subsection, "state agency" has the meaning assigned by Section 2151.002. The term includes the Texas Facilities Commission.

(Enacted by Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.08, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 22.001(23), effective September 1, 2013 (renumbered from Sec. 2267.452).)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Health and Safety Code

TITLE 2
HEALTH

SUBTITLE B
HEALTH PROGRAMS

CHAPTER 36
SPECIAL SENSES AND COMMUNICATION DISORDERS

Section

Sec. 36.001. Short Title.

This chapter may be cited as the Special Senses and Communication Disorders Act.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.002. Purpose.

(a) The purpose of this chapter is to establish a program to identify, at as early an age as possible, those individuals from birth through 20 years of age who have special senses and communication disorders and who need remedial vision, hearing, speech, and language services. Early detection and remediation of those disorders provide the individuals with the opportunity to reach academic and social status through adequate educational planning and training.

(b) This chapter shall be implemented in accordance with the provisions of professional license laws that pertain to professional examinations and remedial services for individuals with special senses and communication disorders.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.003. Definitions.

In this chapter:

(1) "Communication disorder" means an abnormality of functioning related to the ability to express and receive ideas.

(2) "Other benefit" means a benefit, other than a benefit under this chapter, to which an individual is entitled for payment of the costs of remedial services, and includes:

(A) benefits received under a personal insurance contract;

(B) payments received from another person for personal injury caused by the other person's negligence or wrongdoing; and

(C) payments received from any other source.

(3) "Preschool" means an educational or child-care institution that admits children who are three years of age or older but younger than five years of age.

(4) "Professional examination" means a diagnostic evaluation performed by an appropriately licensed professional or, if the professional is not required to be licensed under the laws of this state, by a certified or sanctioned individual whose area of expertise addresses the diagnostic needs of an individual identified as having a possible special senses or communication disorder.

(5) "Provider" means a person who provides remedial services to individuals who have special senses and communication disorders, and includes a physician, audiologist, speech pathologist, optometrist, psychologist, hospital, clinic, rehabilitation center, university, or medical school.

(6) "Remedial services" means professional examinations and prescribed remediation, including prosthetic devices, for individuals with special senses or communication disorders.

(7) "School" means an educational institution that admits children who are five years of age or older but younger than 21 years of age.

(8) "Screening" means a test or battery of tests administered to rapidly determine the need for a professional examination.

(9) "Special senses" means the faculties by which the conditions or properties of things are perceived, and includes vision and hearing.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.004. Screening Program for Special Senses and Communication Disorders.

(a) The board by rule shall require screening of individuals who attend public or private preschools or schools to detect vision and hearing disorders and any other special senses or communication disorders specified by the board. In developing the rules, the board may consider the number of individuals to be screened and the availability of:

(1) personnel qualified to administer the required screening;

(2) appropriate screening equipment; and

(3) state and local funds for screening activities.

(b) The rules must include procedures necessary to administer screening activities.

(c) The board shall adopt a schedule for implementing the screening requirements and shall give priority to the age groups that may derive the greatest educational and social benefits from early identification of special senses and communication disorders.

(d) The rules must provide for acceptance of results of screening conducted by a licensed professional, regardless of whether that professional is under contract with the department, if:

(1) the professional's legally defined scope of practice includes the area for which the screening is conducted; and

(2) the professional uses acceptable procedures for the screening.

(e) The department may coordinate the special senses and communication disorders screening activities of school districts, private schools, state agencies, volunteer organizations, and other entities so that the efforts of each entity are complementary and not fragmented and duplicative. The department may provide technical assistance to those entities in developing screening programs and may provide educational and other material to assist local screening activities.

(f) The department may provide screening personnel, equipment, and services only if the screening requirements cannot otherwise be met.

(g) The department shall monitor the quality of screening activities provided under this chapter.

(h) This section does not prohibit a volunteer from participating in the department's screening programs.

(i) A hearing screening performed under this section is in addition to any hearing screening test performed under Chapter 47.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1999, 76th Leg., ch. 1347 (H.B. 714), § 2, effective September 1, 1999.)

Sec. 36.005. Compliance with Screening Requirements.

(a) An individual required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the board. The individual shall comply with the requirements as soon as possible after the individual's admission to a preschool or school and within the period set by the board. The individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian, may substitute professional examinations for the screening.

(b) An individual is exempt from screening if screening conflicts with the tenets and practices of a recognized church or religious denomination of which the individual is an adherent or a member. To qualify for the exemption, the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian, must submit to the admitting officer of the preschool or school on or before the day of admission an affidavit stating the objections to screening.

(c) The chief administrator of each preschool or school shall ensure that each individual admitted to the preschool or school complies with the screening requirements set by the board or submits an affidavit of exemption.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.006. Records; Reports.

(a) The chief administrator of each preschool or school shall maintain, on a form prescribed by the department, screening records for each individual in attendance, and the records are open for inspection by the department or the local health department.

(b) The department may, directly or through local health departments, enter a preschool or school and inspect records maintained by the preschool or school relating to screening for special senses and communication disorders.

(c) An individual's screening records may be transferred among preschools and schools without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian.

(d) Each preschool or school shall submit to the department an annual report on the screening status of the individuals in attendance during the reporting year and shall include in the report any other information required by the board. The report must be on a form prescribed by the department and must be submitted according to the board's rules.
(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.007. Provision of Remedial Services.

(a) The department may provide remedial services directly or through approved providers to eligible individuals who have certain special senses and communication disorders and who are not eligible for special education services that remediate those disorders and that are administered by the Texas Education Agency through the public schools.

(b) The board by rule shall:

(1) describe the type, amount, and duration of remedial services that the department provides;

(2) establish medical, financial, and other criteria to be applied by the department in determining an individual's eligibility for the services;

(3) establish criteria for the selection by the department of providers of remedial services; and

(4) establish procedures necessary to provide remedial services.

(c) The board may establish a schedule to determine financial eligibility.

(d) The department may not require remedial services without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian.
(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.34, effective September 1, 1997.)

Sec. 36.008. Individuals Eligible for Remedial Services.

(a) An individual is not eligible to receive the remedial services authorized by this chapter to the extent that the individual or the parent, managing conservator, or other person with a legal obligation to support the individual is eligible for some other benefit that would pay for all or part of the services.

(b) The department may waive ineligibility under Subsection (a) if the department finds that:

(1) good cause for the waiver is shown; and

(2) enforcement of the requirement would tend to defeat the purpose of this chapter or disrupt the administration or prevent the provision of remedial services to an otherwise eligible recipient.

(c) When an application for remedial services is filed or at any time that an individual is eligible for and receiving remedial services, the applicant or recipient shall inform the department of any other benefit to which the applicant, recipient, or person with a legal obligation to support the applicant or recipient may be entitled.

(d) The department may modify, suspend, or terminate the eligibility of an applicant for or recipient of remedial services after notice to the affected individual and an opportunity for a fair hearing that is conducted in accordance with the informal hearing rules adopted by the board.

(e) The board by rule shall provide criteria for actions taken under this section.
(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.009. Reimbursement.

(a) The board may require an individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian, to pay or reimburse the department for a part of the cost of the remedial services provided.

(b) The recipient or the parent, managing conservator, or other person with a legal obligation to support an individual who has received remedial services from the department that are covered by some other benefit shall, when the other benefit is received, reimburse the department for the cost of services provided.
(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.010. Recovery of Costs.

(a) The department is entitled to recover an expenditure for services provided under this chapter from:

(1) a person who does not reimburse the department as required by this chapter; or

(2) a third party with a legal obligation to pay other benefits and who has notice of the department's interests in the other benefits.

(b) The commissioner may request the attorney general to bring suit in the appropriate court of Travis County on behalf of the department. A suit brought under this section need not be ancillary or dependent on any other action.

(c) In a judgment in favor of the department, the court may award attorney's fees, court costs, and interest accruing from the date on which the department provides the service to the date on which the department is reimbursed.

(d) The board by rule shall provide criteria for actions taken under this section.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.011. Qualifications of Persons Providing Screening and Remedial Services.

(a) The department may require that persons who administer special senses and communication disorders screening complete an approved training program, and the department may train those persons and approve training programs.

(b) A person who provides speech and language screening services authorized by this chapter must be:

(1) appropriately licensed; or

(2) trained and monitored by a person who is appropriately licensed.

(c) A person who is not an appropriately licensed professional may not conduct hearing screening authorized by this chapter other than screening of hearing sensitivity. The person shall refer an individual who is unable to respond reliably to that screening to an appropriately licensed professional.

(d) A person who provides a professional examination or remedial services authorized by this chapter for speech, language, or hearing disorders must be appropriately licensed.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.012. Research.

(a) The department may conduct research and compile statistics on the provision of remedial services to individuals with special senses and communication disorders and on the availability of those services in the state.

(b) [Repealed by Acts 2011, 82nd Leg., ch. 1050 (S.B. 71), § 22(2), effective September 1, 2011 and by Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(80), effective June 17, 2011.]

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 2011, 82nd Leg., ch. 1050 (S.B. 71), §§ 7, 22(2), effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1083 (S.B. 1179), § 25(80), effective June 17, 2011.)

Sec. 36.013. Funding.

The department may accept appropriations, donations, and reimbursements, including donations of prosthetic devices, and may apply those items to the purposes of this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.014. ontracts.

The department may enter into contracts and agreements necessary to administer this chapter, including contracts for the purchase of remedial services.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 36.015. Interagency Committee on Special Senses and Communication Disorders [Repealed].

Repealed by Acts 1997, 75th Leg., ch. 623 (S.B. 1517), § 11(1), effective September 1, 1997.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1995, 74th Leg., ch. 835 (H.B. 2859), § 23, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.35, effective September 1, 1997.)

CHAPTER 37
ABNORMAL SPINAL CURVATURE IN CHILDREN

Section

Sec. 37.001. Screening Program for Abnormal Spinal Curvature.

(a) The department, in cooperation with the Texas Education Agency, shall establish a program to detect abnormal spinal curvature in children.

(b) The board, in cooperation with the Texas Education Agency, shall adopt rules for the mandatory spinal screening of children in grades 6 and 9 attending public or private schools. The department shall coordinate the spinal screening program with any other screening program conducted by the department on those children.

(c) The board shall adopt substantive and procedural rules necessary to administer screening activities.

(d) A rule adopted by the board under this chapter may not require any expenditure by a school, other than an incidental expense required for certification training for nonhealth practitioners and for notification requirements under Section 37.003.

(e) The department may coordinate the spinal screening activities of school districts, private schools, state agencies, volunteer organizations, and other entities so that the efforts of each entity are complementary and not duplicative. The depart-

ment may provide technical assistance to those entities in developing screening programs and may provide educational and other material to assist local screening activities.

(f) The department shall monitor the quality of screening activities provided under this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.36, effective September 1, 1997.)

Sec. 37.002. Compliance with Screening Requirements.

(a) Each individual required by board rule to be screened shall undergo approved screening for abnormal spinal curvature. The individual's parent, managing conservator, or guardian may substitute professional examinations for the screening.

(b) An individual is exempt from screening if screening conflicts with the tenets and practices of a recognized church or religious denomination of which the individual is an adherent or a member. To qualify for the exemption, the individual's parent, managing conservator, or guardian must submit to the chief administrator on or before the day of the screening procedure an affidavit stating the objections to screening.

(c) The chief administrator of each school shall ensure that each individual admitted to the school complies with the screening requirements set by the board or submits an affidavit of exemption.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 37.003. Reports.

(a) If the screening performed under this chapter indicates that an individual may have abnormal spinal curvature, the individual performing the screening shall fill out a report on a form prescribed by the department.

(b) The chief administrator of the school shall retain one copy of the report and shall mail one copy to the parent, managing conservator, or guardian of the individual screened.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 37.004. Qualifications of Persons Providing Screening.

(a) The department may train persons who administer the spinal screening procedure and may approve training programs.

(b) A person who provides screening services authorized by this chapter must be:

(1) appropriately licensed or certified as a health practitioner; or

(2) certified as having completed an approved training program in screening for abnormal spinal curvature.

(c) A person who provides a professional examination authorized by this chapter for abnormal spinal curvature must be appropriately licensed or certified as a health practitioner.

(d) It is the intent of the legislature that the department provide certification training for nonhealth practitioners through Texas Education Agency regional education service centers.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.37, effective September 1, 1997.)

Sec. 37.005. Funding.

The department may accept appropriations, donations, and reimbursements and may apply those items to the purposes of this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 37.006. Contracts.

The department may enter into contracts and agreements necessary to administer this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

CHAPTER 38
PEDICULOSIS OF MINORS [REPEALED]

Section

Sec. 38.001. Program Established [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1261 (H.B. 595), § 2(a), effective September 1, 2013.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 38.002. Treatment of Minor Who Has Pediculosis [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1261 (H.B. 595), § 2(a), effective September 1, 2013.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

SUBTITLE C
PROGRAMS PROVIDING HEALTH CARE BENEFITS AND SERVICES

CHAPTER 62
CHILD HEALTH PLAN FOR CERTAIN LOW-INCOME CHILDREN

Subchapter C. Eligibility for Coverage Under Child Health Plan

Section

SUBCHAPTER C
ELIGIBILITY FOR COVERAGE UNDER CHILD HEALTH PLAN

Sec. 62.1015. Eligibility of Certain Children; Disallowance of Matching Funds.

(a) In this section, "charter school," "employee," and "regional education service center" have the meanings assigned by Section 2, Article 3.50-7, Insurance Code.

(b) A child of an employee of a charter school, school district, other educational district whose employees are members of the Teacher Retirement System of Texas, or regional education service center may be enrolled in health benefits coverage under the child health plan. A child enrolled in the child health plan under this section:

(1) participates in the same manner as any other child enrolled in the child health plan; and

(2) is subject to the same requirements and restrictions relating to income eligibility, continuous coverage, and enrollment, including applicable waiting periods, as any other child enrolled in the child health plan.

(c) The cost of health benefits coverage for children enrolled in the child health plan under this section shall be paid as provided in the General Appropriations Act. Expenditures made to provide health benefits coverage under this section may not be included for the purpose of determining the state children's health insurance expenditures, as that term is defined by 42 U.S.C. Section 1397ee(d)(2)(B), as amended, unless the Health and Human Services Commission, after consultation with the appropriate federal agencies, determines that the expenditures may be included without adversely affecting federal matching funding for the child health plan provided under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), § 1.04, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), § 2.47, effective September 1, 2003.)

SUBTITLE D
PREVENTION, CONTROL, AND REPORTS OF DISEASES

CHAPTER 95
DIABETES

Subchapter A. Risk Assessment for Type 2 Diabetes

Section

SUBCHAPTER A
RISK ASSESSMENT FOR TYPE 2 DIABETES

Sec. 95.001. Definitions.

In this subchapter:

(1) "Acanthosis nigricans" means a light brown or black velvety, rough, or thickened area on the surface of the skin that may signal high insulin levels indicative of insulin resistance.

(2) "Advisory committee" means the Type 2 Diabetes Risk Assessment Program Advisory Committee established under Section 95.006.

(3) "Council" means the Texas Diabetes Council.

(4) "Office" means The University of Texas-Pan American Border Health Office.

(5) "Professional examination" means an evaluation performed by an appropriately licensed professional.

(6) "School" means an educational institution that admits children who are five years of age or older but younger than 21 years of age.

(Enacted by Acts 2001, 77th Leg., ch. 1465 (H.B. 2989), § 1, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 504 (S.B. 415), §§ 2, 6, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 392 (S.B. 510), § 3, effective September 1, 2011.)

Sec. 95.002. Type 2 Diabetes Education and Risk Assessment Program.

(a) The office shall administer a risk assessment program for Type 2 diabetes in accordance with this chapter.

(b) The office, after reviewing recommendations made by the advisory committee, by rule shall coordinate the risk assessment for Type 2 diabetes of individuals who attend public or private schools located in Texas Education Agency Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 and, by using existing funding as efficiently as possible or by using other available funding, in additional regional education service centers.

(c) The rules must include procedures necessary to administer the risk assessment program, including procedures that require each school to record and report risk assessment activities using:

(1) an existing database used to administer and track risk assessment data; or

(2) widely accepted surveillance software selected by the office.

(d) The office shall require a risk assessment for Type 2 diabetes to be performed at the same time hearing and vision screening is performed under Chapter 36 or spinal screening is performed under Chapter 37. The risk assessment for Type 2 diabetes should:

(1) identify students with acanthosis nigricans; and

(2) further assess students identified under Subdivision (1) to determine the students':

(A) body mass index; and

(B) blood pressure.

(e) The office may:

(1) coordinate the risk assessment for Type 2 diabetes activities of school districts, private schools, state agencies, volunteer organizations, universities, and other entities so that the efforts of each entity are complementary and not fragmented and duplicative; and

(2) provide technical assistance to those entities in developing risk assessment programs.

(f) The office shall:

(1) provide educational and other material to assist local risk assessment activities;

(2) monitor the quality of risk assessment activities provided under this chapter; and

(3) consult with the Board of Nurse Examiners to determine the training requirements necessary for a nurse or other person to conduct risk assessment activities under this chapter.

(g) The office shall provide on the office's Internet website information on obesity, Type 2 diabetes, and related conditions to health care providers and update the information at least annually.

(Enacted by Acts 2001, 77th Leg., ch. 1465 (H.B. 2989), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1125 (H.B. 2721), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 504 (S.B. 415), § 3, effective September 1, 2007.)

Sec. 95.003. Compliance with Risk Assessment Requirements.

(a) Each individual required by rules adopted under this chapter to be assessed shall undergo approved risk assessment for Type 2 diabetes. The individual shall comply with the requirements as soon as possible after the individual's admission to a school and as required by rule. The individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian may substitute a professional examination for the risk assessment.

(b) An individual is exempt from risk assessment if risk assessment conflicts with the tenets and practices of a recognized church or religious denomination of which the individual is an adherent or a member. To qualify for the exemption, the individual or, if the individual is a minor, the individual's parent, managing conservator, or guardian must submit to the chief administrator of the school on or before the day of the risk assessment process an affidavit stating the objections to the risk assessment.

(c) The chief administrator of each school shall ensure that each individual admitted to the school complies with the risk assessment requirements set by the office or submits an affidavit of exemption.

(Enacted by Acts 2001, 77th Leg., ch. 1465 (H.B. 2989), § 1, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 504 (S.B. 415), § 3, effective September 1, 2007.)

Sec. 95.004. Records; Reports.

(a) The chief administrator of each school shall maintain, on a form prescribed by the office, risk assessment records for each individual in attendance and enter the risk assessment information for each individual on the surveillance software selected by the office. The risk assessment records are open for inspection by the office or the local health department.

(b) The office may, directly or through local health departments, enter a school and inspect records maintained by the school relating to risk assessment for Type 2 diabetes.

(c) An individual's risk assessment records may be transferred among schools without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian.

(d) The person performing the risk assessment shall send a report indicating that an individual may be at risk for developing Type 2 diabetes to the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian. The report must include:

(1) an explanation of:

(A) the process for assessing risk for developing Type 2 diabetes;

(B) the reasons the individual was identified in the risk assessment process as being at risk for developing Type 2 diabetes;

(C) the risk factors associated with developing Type 2 diabetes; and

(D) the individual's body mass index;

(2) a statement concerning an individual's or family's need for further evaluation for Type 2 diabetes and related conditions;

(3) instructions to help the individual or family receive evaluation by a physician or other health care provider; and

(4) information on procedures for applying for the state child health plan program and the state Medicaid program.

(e) Each school shall submit to the office an annual report on the risk assessment status of the individuals in attendance during the reporting year and shall include in the report any other information required by the office.

(f) The report required under Subsection (e) must:

(1) be compiled from the information entered into the surveillance software;

(2) be on a form prescribed by the office; and

(3) be submitted according to the timetable established by the office's rules.

(g) After the end of the reporting period under Subsection (e), the office shall:

(1) analyze and compile a summary of the reports submitted by schools during that reporting period;

(2) file a copy of the summary with the advisory committee; and

(3) post on an Internet website accessible to each school required to submit a report under Subsection (e):

(A) the number of students and the percentage of the student population identified by each of those schools during the reporting period as at risk for Type 2 diabetes; and

(B) comparison data and analyses regarding the information required to be reported under that subsection.

(h) The office shall deliver to the chief administrator of each school and the school nurse or other person responsible for conducting risk assessment activities for the school under this chapter an annual summary compilation of the reports submitted by schools under Subsection (e).

(i) Not later than January 15 of each odd-numbered year, the office shall submit to the governor and the legislature a report relating to the implementation and effectiveness of the Type 2 diabetes risk assessment program established by this chapter that includes a detailed description of the expenses related to the program.

(Enacted by Acts 2001, 77th Leg., ch. 1465 (H.B. 2989), § 1, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 504 (S.B. 415), § 3, effective September 1, 2007.)

Sec. 95.005. Gifts and Grants.

The office may accept gifts, grants, and donations to support the Type 2 diabetes risk assessment program conducted under this chapter.

(Enacted by Acts 2007, 80th Leg., ch. 504 (S.B. 415), § 4, effective September 1, 2007.)

Sec. 95.006. Advisory Committee.

(a) The Type 2 Diabetes Risk Assessment Program Advisory Committee is established to advise the office on the Type 2 diabetes risk assessment program conducted under this chapter.

(b) The advisory committee is composed of:

(1) the following representatives appointed by the executive director of the office:

(A) one representative of the office;

(B) one representative of the Texas Education Agency;

(C) one representative of the Texas Pediatric Society;

(D) one representative of the American Diabetes Association;

(E) one school nurse representative from an urban school located within the boundaries of a regional education service center;

(F) one parent or guardian of a child who resides within the boundaries of a regional education service center; and

(G) one person with knowledge and experience in health care in school settings; and

(2) the following representatives appointed by the chairman of the council:

(A) one representative of the council;

(B) one representative of the Texas Medical Association;

(C) one school district administrator representative from a school district located within the boundaries of a regional education service center;

(D) one school principal representative from a school district located within the boundaries of a regional education service center; and

(E) one school nurse representative from a rural school located within the boundaries of a regional education service center.

(c) A person may not be a member of the advisory committee if the person is required to register as a lobbyist under Chapter 305, Government Code, be-

cause of the person's activities for compensation on behalf of a health care profession or related business or another profession related to the operation of the council.

(d) The representative of the office appointed under Subsection (b)(1)(A) shall serve as the presiding officer of the advisory committee.

(e) The advisory committee shall meet at least twice a year and at other times at the call of the presiding officer. The advisory committee may meet by teleconference if an in-person meeting of all the members is not practicable.

(f) Members of the advisory committee may not receive compensation for service on the committee. An advisory committee member is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the advisory committee to the extent that funds are available to the office for that purpose.

(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

(h) The advisory committee shall:

(1) recommend the person who should be responsible for conducting risk assessment activities under this chapter for schools that do not employ a school nurse;

(2) advise the office on the age groups that would benefit most from the risk assessment activities under this chapter;

(3) recommend a method to record and report the number of children who are identified in the risk assessment process as being at risk for having or developing Type 2 diabetes and who qualify for the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.;

(4) recommend a deadline, which may not be later than the first anniversary of the date the advisory committee submits a recommendation to the office under this section, by which the office shall implement the advisory committee's recommended risk assessment activities, surveillance methods, reports, and quality improvements;

(5) contribute to the state plan for diabetes treatment developed by the council under Section 103.013 by providing statistics and information on the risk assessment activities conducted under this chapter and recommendations for assisting children in this state at risk for developing Type 2 diabetes; and

(6) recommend any additional information to be included in the report required by Section 95.004.

(i) The advisory committee shall submit to the office a report of the recommendations developed under Subsection (h) not later than September 1 of each even-numbered year. The office, subject to the availability of funds, shall implement each advisory committee recommendation concerning the Type 2 diabetes risk assessment program.

(j) In this section, "regional education service center" means a Texas Education Agency Regional Education Service Center listed in Section 95.002(b).

(Enacted by Acts 2007, 80th Leg., ch. 504 (S.B. 415), § 4, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1049 (S.B. 5), § 5.02, effective June 17, 2011.)

SUBTITLE E
HEALTH CARE COUNCILS AND RESOURCE CENTERS

CHAPTER 114
INTERAGENCY OBESITY COUNCIL

Section

Sec. 114.001. Definition.

In this chapter, "council" means the interagency obesity council created by this chapter.

(Enacted by Acts 2007, 80th Leg., ch. 509 (S.B. 556), § 1, effective ; am. Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.002. Interagency Obesity Council.

The council is composed of the commissioner of agriculture, the commissioner of state health services, and the commissioner of education, or a staff member designated by each of those commissioners.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.003. Contracts for Assistance.

The council may contract with a private or public university to assist in gathering information under this chapter.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.004. Gifts and Grants.

An agency represented on the council may accept gifts and grants on behalf of the council.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.005. Review of Agency Programs.

The council shall review the status of the programs of the Department of Agriculture, the Department of State Health Services, and the Texas Education Agency that promote better health and nutrition and prevent obesity among children and adults in this state.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.006. Evidence-Based Public Health Awareness Plan.

(a) The council shall create an evidence-based public health awareness plan. In creating the plan, the council shall explore past successful public health awareness efforts.

(b) The plan must include:

(1) a cost estimate that accounts for continuing implementation of the plan;

(2) recommendations on reaching populations that would most benefit from increased public health awareness; and

(3) recommendations on encouraging employers to participate in wellness programs for employees.

(c) The council shall solicit input on the plan from the private sector.

(d) The council shall provide to the Department of State Health Services information on effective strategies for employers to use to promote workplace wellness, including information on the projected costs and benefits. The Department of State Health Services shall post the information on its Internet website.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.007. Reports.

(a) Not later than January 15 of each odd-numbered year, the council shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives on the activities of the council under Sections 114.005 and 114.006 during the preceding two calendar years.

(b) A report submitted by the council under Subsection (a) must include the following information regarding discussions of agency programs under Section 114.005:

(1) a list of the programs within each agency represented on the council that are designed to promote better health and nutrition;

(2) an assessment of the steps taken by each program during the preceding two calendar years;

(3) a report of the progress made by taking these steps in reaching each program's goals;

(4) the areas of improvement that are needed in each program; and

(5) recommendations for future goals or legislation.

(c) A report submitted by the council under Subsection (a) must include the following information regarding the evidence-based public health awareness plan under Section 114.006:

(1) a cost estimate for an ongoing program to implement the plan;

(2) projected benefits of the program;

(3) a summary of the information provided to the Department of State Health Services for its Internet website; and

(4) recommendations for goals and future legislation.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

Sec. 114.008. Meetings.

(a) The council shall meet at least once each year to perform its duties under Sections 114.005 and 114.006.

(b) A meeting held under this chapter is not subject to the provisions of the open meetings law, Chapter 551, Government Code.

(Enacted by Acts 2009, 81st Leg., ch. 1212 (S.B. 870), § 1, effective September 1, 2009.)

SUBTITLE H
PUBLIC HEALTH PROVISIONS

CHAPTER 161
PUBLIC HEALTH PROVISIONS

Subchapter O-1. Mental Health, Substance Abuse, and Youth Suicide

SUBCHAPTER O-1
MENTAL HEALTH, SUBSTANCE ABUSE, AND YOUTH SUICIDE

Sec. 161.325. Mental Health Promotion and Intervention, Substance Abuse Prevention and Intervention, and Suicide Prevention.

(a) The department, in coordination with the Texas Education Agency and regional education service centers, shall provide and annually update a list of recommended best practice-based programs in the areas specified under Subsection (a-1) for implemen-

tation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.

(a-1) The list must include programs in the following areas:

(1) early mental health intervention;

(2) mental health promotion and positive youth development;

(3) substance abuse prevention;

(4) substance abuse intervention; and

(5) suicide prevention.

(a-2) The department, the Texas Education Agency, and each regional education service center shall make the list easily accessible on their websites.

(b) The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

(1) recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;

(2) recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and

(3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

(c) In developing the list of programs, the department and the Texas Education Agency shall consider:

(1) any existing suicide prevention method developed by a school district; and

(2) any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(c-1) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (b) for teachers, counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(c-2) If a school district provides the training under Subsection (c-1):

(1) a school district employee described under that subsection must participate in the training at least one time; and

(2) the school district shall maintain records that include the name of each district employee who participated in the training.

(d) The board of trustees of each school district may adopt a policy concerning mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention that:

(1) establishes a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(2) establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(3) establishes that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and

(4) sets out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

(e) The policy must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

(f) The policy and any necessary procedures adopted under Subsection (d) must be included in:

(1) the annual student handbook; and

(2) the district improvement plan under Section 11.252, Education Code.

(g) The department may accept donations for purposes of this section from sources without a conflict of interest. The department may not accept donations for purposes of this section from an anonymous source.

(h) [Expired pursuant to Acts 2011, 82nd Leg., ch. 1134 (H.B. 1386), § 3, effective September 1, 2013.]

(i) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Policy and procedures adopted in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

(Enacted by Acts 2011, 82nd Leg., ch. 1134 (H.B. 1386), § 3, effective June 17, 2011; am. Acts 2013, 83rd Leg., ch. 578 (S.B. 831), §§ 2, 3, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1321 (S.B. 460), § 4, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1134 (H.B.1386), § 8 provides: "This Act applies beginning with the 2012-2013 school year."

Sec. 161.326. Immunity.

This subchapter does not:

(1) waive any immunity from liability of a school district or of district school officers or employees;

(2) create any liability for a cause of action against a school district or against district school officers or employees; or

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code.

(Enacted by Acts 2013, 83rd Leg., ch. 1321 (S.B. 460), § 5, effective September 1, 2013.)

CHAPTER 168
CARE OF STUDENTS WITH DIABETES

Section

Sec. 168.001. Definitions.

In this chapter:

(1) "Diabetes management and treatment plan" means the document required by Section 168.002.

(2) "Individualized health plan" means the document required by Section 168.003.

(3) "Principal" includes the principal's designee.

(4) "School" means a public elementary or secondary school. The term does not include an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code.

(5) "School employee" means a person employed by:

(A) a school;

(B) a local health department that assists a school under this chapter; or

(C) another entity with which a school has contracted to perform its duties under this chapter.

(6) "Unlicensed diabetes care assistant" means a school employee who has successfully completed the training required by Section 168.005.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.002. Diabetes Management and Treatment Plan.

(a) A diabetes management and treatment plan must be developed and implemented for each student with diabetes who will seek care for the student's diabetes while at school or while participating in a school activity. The plan shall be developed by:

(1) the student's parent or guardian; and

(2) the physician responsible for the student's diabetes treatment.

(b) A diabetes management and treatment plan must:

(1) identify the health care services the student may receive at school;

(2) evaluate the student's ability to manage and level of understanding of the student's diabetes; and

(3) be signed by the student's parent or guardian and the physician responsible for the student's diabetes treatment.

(c) The parent or guardian of a student with diabetes who seeks care for the student's diabetes while the student is at school shall submit to the school a copy of the student's diabetes management and treatment plan. The plan must be submitted to and reviewed by the school:

(1) before or at the beginning of the school year;

(2) on enrollment of the student, if the student enrolls in the school after the beginning of the school year; or

(3) as soon as practicable following a diagnosis of diabetes for the student.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.003. Individualized Health Plan.

(a) An individualized health plan is a coordinated plan of care designed to meet the unique health care needs of a student with diabetes in the school setting.

(b) An individualized health plan must be developed for each student with diabetes who will seek care for diabetes while at school or while participating in a school activity. The school principal and the school nurse, if a school nurse is assigned to the school, shall develop a student's individualized health plan in collaboration with the student's parent or guardian and, to the extent practicable, the physician responsible for the student's diabetes treatment and one or more of the student's teachers.

(c) A student's individualized health plan must incorporate components of the student's diabetes management and treatment plan, including the information required under Section 168.002(b). A school shall develop a student's individualized health plan on receiving the student's diabetes management and treatment plan.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.004. Unlicensed Diabetes Care Assistant.

(a) At each school in which a student with diabetes is enrolled, the school principal shall:

(1) seek school employees who are not health care professionals to serve as unlicensed diabetes care assistants and care for students with diabetes; and

(2) make efforts to ensure that the school has:

(A) at least one unlicensed diabetes care assistant if a full-time nurse is assigned to the school; and

(B) at least three unlicensed diabetes care assistants if a full-time nurse is not assigned to the school.

(b) An unlicensed diabetes care assistant shall serve under the supervision of the principal.

(c) A school employee may not be subject to any penalty or disciplinary action for refusing to serve as an unlicensed diabetes care assistant.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.005. Training for Unlicensed Diabetes Care Assistant.

(a) The Texas Diabetes Council shall develop guidelines, with the assistance of the following entities, for the training of unlicensed diabetes care assistants:

(1) the department's School Health Program;

(2) the American Diabetes Association;

(3) the Juvenile Diabetes Research Foundation International;

(4) the American Association of Diabetes Educators;

(5) the Texas Nurses Association;

(6) the Texas School Nurse Organization; and

(7) the Texas Education Agency.

(b) If a school nurse is assigned to a campus, the school nurse shall coordinate the training of school employees acting as unlicensed diabetes care assistants.

(c) Training under this section must be provided by a health care professional with expertise in the care of persons with diabetes or by the school nurse. The training must be provided before the beginning of the school year or as soon as practicable following:

(1) the enrollment of a student with diabetes at a campus that previously had no students with diabetes; or

(2) a diagnosis of diabetes for a student at a campus that previously had no students with diabetes.

(d) The training must include instruction in:

(1) recognizing the symptoms of hypoglycemia and hyperglycemia;

(2) understanding the proper action to take if the blood glucose levels of a student with diabetes are outside the target ranges indicated by the student's diabetes management and treatment plan;

(3) understanding the details of a student's individualized health plan;

(4) performing finger-sticks to check blood glucose levels, checking urine ketone levels, and recording the results of those checks;

(5) properly administering glucagon and insulin and recording the results of the administration;

(6) recognizing complications that require seeking emergency assistance; and

(7) understanding the recommended schedules and food intake for meals and snacks for a student with diabetes, the effect of physical activity on blood glucose levels, and the proper actions to be taken if a student's schedule is disrupted.

(e) The school nurse or principal shall maintain a copy of the training guidelines and any records associated with the training.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.006. Required Information for Certain Employees.

A school district shall provide to each district employee who is responsible for providing transportation for a student with diabetes or supervising a student with diabetes during an off-campus activity a one-page information sheet that:

(1) identifies the student who has diabetes;

(2) identifies potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies; and

(3) provides the telephone number of a contact person in case of an emergency involving the student with diabetes.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.007. Required Care of Students with Diabetes.

(a) If a school nurse is assigned to a campus and the nurse is available, the nurse shall perform the tasks necessary to assist a student with diabetes in accordance with the student's individualized health plan. If a school nurse is not assigned to the campus or a school nurse is not available, an unlicensed diabetes care assistant shall perform the tasks necessary to assist the student with diabetes in accordance with the student's individualized health plan and in compliance with any guidelines provided during training under Section 168.005. An unlicensed diabetes care assistant may perform the tasks provided by this subsection only if the parent or guardian of the student signs an agreement that:

(1) authorizes an unlicensed diabetes care assistant to assist the student; and

(2) states that the parent or guardian understands that an unlicensed diabetes care assistant is not liable for civil damages as provided by Section 168.009.

(b) If a school nurse is not assigned to a campus:

(1) an unlicensed diabetes care assistant must have access to an individual with expertise in the care of persons with diabetes, such as a physician, a registered nurse, a certified diabetes educator, or a licensed dietitian; or

(2) the principal must have access to the physician responsible for the student's diabetes treatment.

(c) Each school shall adopt a procedure to ensure that a school nurse or at least one unlicensed diabetes care assistant is present and available to provide the required care to a student with diabetes during the regular school day.

(d) A school district may not restrict the assignment of a student with diabetes to a particular campus on the basis that the campus does not have the required unlicensed diabetes care assistants.

(e) An unlicensed diabetes care assistant who assists a student as provided by Subsection (a) in compliance with a student's individualized health plan:

(1) is not considered to be engaging in the practice of professional or vocational nursing under Chapter 301, Occupations Code, or other state law; and

(2) is exempt from any applicable state law or rule that restricts the activities that may be performed by a person who is not a health care professional.

(f) An unlicensed diabetes care assistant may exercise reasonable judgment in deciding whether to contact a health care provider in the event of a medical emergency involving a student with diabetes.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.008. Independent Monitoring and Treatment.

In accordance with the student's individualized health plan, a school shall permit the student to attend to the management and care of the student's diabetes, which may include:

(1) performing blood glucose level checks;

(2) administering insulin through the insulin delivery system the student uses;

(3) treating hypoglycemia and hyperglycemia;

(4) possessing on the student's person at any time any supplies or equipment necessary to monitor and care for the student's diabetes; and

(5) otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school-related activity.

(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.009. Immunity from Disciplinary Action or Liability.

(a) A school employee may not be subject to any disciplinary proceeding, as defined by Section 22.0512(b), Education Code, resulting from an action taken in compliance with this subchapter. The requirements of this subchapter are considered to involve the employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section 22.0511, Education Code. Nothing in the subchapter shall be considered to limit the immunity from liability afforded under Section 22.0511, Education Code.

(b) A school nurse is not responsible for and may not be subject to disciplinary action under Chapter 301, Occupations Code, for actions performed by an unlicensed diabetes care assistant.
(Enacted by Acts 2005, 79th Leg., ch. 1022 (H.B. 984), § 1, effective June 18, 2005.)

Sec. 168.010. Diabetes Intervention Pilot Program for School Districts Located on the Texas-Mexico Border.

(a) This section applies only to a school district located in a county that:

(1) has a population of less than 800,000; and

(2) is located on the international border.

(b) The department, in consultation with the Texas Education Agency, shall adopt criteria for the development of a pilot program that is designed to prevent and detect Type 2 diabetes for a school district described by Subsection (a) that has a student population identified by the commissioner as at risk for Type 2 diabetes and that takes into account the needs of the school district. A pilot program developed under this subsection must provide that:

(1) for each student in kindergarten through grade eight, each school in the school district must:

(A) measure the height, weight, and blood glucose levels of the student at the beginning of the school year and at another appropriate time during the implementation of the program; and

(B) track the measurements of the student and the progress of the student under the program through a data entry system provided over the Internet; and

(2) the pilot program components consist of bilingual materials.

(c) A school district to which Subsection (a) applies may choose to participate in a pilot program under this section. In the first year a school district implements a program under this section, the district shall report the measurements of student height, weight, and blood glucose levels and the progress of a student under the program to the entity that administers the program. The administering entity, in cooperation with the department, shall evaluate and analyze the measurements to determine the effectiveness of the program in the first year.

(d) The department shall, from money appropriated for that purpose, distribute money to each school district that chooses to implement a pilot program under this section to cover the costs associated with the program.
(Enacted by Acts 2007, 80th Leg., ch. 1111 (H.B. 3618), § 1, effective June 15, 2007; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 34, effective September 1, 2011.)

Sec. 168.011. Grant-Writing Coordination Program.

(a) The department shall employ one person as a grant writer to assist and coordinate with school districts located in the Texas-Mexico border region in obtaining grants and other funds for school-based health centers.

(b) A grant writer employed under this section may secure a grant or other funds on behalf of the state for a school-based health center.

(c) Funds obtained by the use of a grant writer employed under this section may be used only to:

(1) acquire, construct, or improve facilities for a school-based health center;

(2) purchase or lease equipment or materials for a school-based health center; or

(3) pay the salary or employment benefits of a person who is employed to work exclusively in a school-based health center.
(Enacted by Acts 2007, 80th Leg., ch. 1111 (H.B. 3618), § 1, effective June 15, 2007.)

TITLE 4
HEALTH FACILITIES

SUBTITLE D
HOSPITAL DISTRICTS

CHAPTER 281
HOSPITAL DISTRICTS IN COUNTIES OF AT LEAST 190,000

Subchapter C. General Powers and Duties

Section
281.0465. Nursing Services for School Districts.

SUBCHAPTER C
GENERAL POWERS AND DUTIES

Sec. 281.0465. Nursing Services for School Districts.

A hospital district may contract with a school district included in the hospital district to provide nursing services and assistance to employees or students of the school district.

(Enacted by Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 38, effective May 30, 1995.)

TITLE 5
SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE A
SANITATION

CHAPTER 341
MINIMUM STANDARDS OF SANITATION AND HEALTH PROTECTION MEASURES

Subchapter B. Nuisances and General Sanitation

Section
341.018. Rodent Control.

Subchapter D. Sanitation and Safety of Facilities Used by Public

341.061. Toilet Facilities.
341.062. Public Buildings.
341.065. School Buildings and Grounds.

SUBCHAPTER B
NUISANCES AND GENERAL SANITATION

Sec. 341.018. Rodent Control.

(a) A person who possesses an enclosed structure used or operated for public trade and who knows that the structure is infested with rodents shall:

(1) attempt to exterminate the rodents by poisoning, trapping, fumigating, or other appropriate means; and

(2) provide every practical means of eliminating rats in the structure.

(b) A public building that is constructed after September 4, 1945, must incorporate rat-proofing features.

(c) The board shall promote rodent control programs in rat-infested areas and in localities in which typhus fever has appeared.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

SUBCHAPTER D
SANITATION AND SAFETY OF FACILITIES USED BY PUBLIC

Sec. 341.061. Toilet Facilities.

An operator, manager, or superintendent of a public building, schoolhouse, theater, filling station, tourist court, bus station, or tavern shall provide and maintain sanitary toilet accommodations.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 341.062. Public Buildings.

A public building constructed after September 4, 1945, shall incorporate the heating, ventilation, plumbing, and screening features necessary to protect the public health and safety.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 341.065. School Buildings and Grounds.

(a) A school building must be located on grounds that are well drained and maintained in a sanitary condition.

(b) A school building must be properly ventilated and provided with an adequate supply of drinking water, an approved sewage disposal system, handwashing facilities, a heating system, and lighting facilities that conform to established standards of good public health engineering practices.

(c) A public school lunchroom must comply with the state food and drug rules.

(d) A public school building and its appurtenances shall be maintained in a sanitary manner.

(e) A building custodian or janitor employed full-time shall know the fundamentals of safety and school sanitation.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

SUBTITLE C
AIR QUALITY

CHAPTER 385
INDOOR AIR QUALITY IN GOVERNMENT BUILDINGS

Section
385.001. Definitions.
385.002. Powers and Duties of Board.
385.003. Liability and Immunity.

Sec. 385.001. Definitions.

In this chapter:

(1) "Air contaminant" means a gaseous, liquid, or solid substance or combination of substances that is in a form that is transported by or in air and has the potential to be detrimental to human health.

(2) "Board" means the Texas Board of Health.

(3) "Government building" means a building that is:

(A) owned, or leased for a term of at least three months, by a state governmental entity or by a political subdivision of this state, including a county, municipality, special purpose district, or school district; and

(B) regularly open to members of the public or used by the state or local governmental entity for a purpose that involves regular occupancy of the building by an employee or by a person in the custody or control of the governmental entity such as a public school student.

(4) "Indoor air pollution" means the presence, in an indoor environment, of one or more air contaminants in sufficient concentration and of sufficient duration to be capable of causing adverse effects to human health.

(Enacted by Acts 1995, 74th Leg., ch. 690 (H.B. 2850), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1067 (H.B. 2008), § 1, effective September 1, 2001.)

Sec. 385.002. Powers and Duties of Board.

(a) The board by rule shall establish voluntary guidelines for indoor air quality in government buildings, including guidelines for ventilation and indoor air pollution control systems. The board may adopt other rules necessary to implement this chapter.

(b) In establishing the guidelines, the board shall consider:

(1) the potential chronic effects of air contaminants on human health;

(2) the potential effects of insufficient ventilation of the indoor environment on human health;

(3) the potential costs of health care for the short-term and long-term effects on human health that may result from exposure to indoor air contaminants; and

(4) the potential costs of compliance with a proposed guideline.

(c) A guideline adopted under this chapter may include a contaminant concentration, a control method, a sampling method, a ventilation rate, design, or procedure, or a similar recommendation.

(d) The board's guidelines may differ for different pollution sources or different areas of the state and may differ for buildings that are regularly occupied or visited by children.

(Enacted by Acts 1995, 74th Leg., ch. 690 (H.B. 2850), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1067 (H.B. 2008), § 1, effective September 1, 2001.)

Sec. 385.003. Liability and Immunity.

This chapter does not create liability for a governmental entity for an injury caused by the failure to comply with the voluntary guidelines established under Section 385.002.

(Enacted by Acts 1995, 74th Leg., ch. 690 (H.B. 2850), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1067 (H.B. 2008), § 1, effective September 1, 2001.)

CHAPTER 386
TEXAS EMISSIONS REDUCTION PLAN [EXPIRES AUGUST 31, 2019]

Subchapter B. Texas Emissions Reduction Plan [Expires August 31, 2019]

Section

Subchapter F. Texas Emissions Reduction Plan Fund [Expires August 31, 2019]

SUBCHAPTER B
TEXAS EMISSIONS REDUCTION PLAN [EXPIRES AUGUST 31, 2019]

Sec. 386.051. [Expires August 31, 2019] Texas Emissions Reduction Plan.

(a) The utility commission, the commission, and the comptroller shall establish and administer the Texas emissions reduction plan in accordance with this chapter.

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a);

(7) a health effects study as provided by Section 386.252(a);

(8) air quality planning activities as provided by Section 386.252(a);

(9) a contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for computation of creditable statewide emissions reductions as provided by Section 386.252(a)(14);

(10) the clean fleet program established under Chapter 392;

(11) the alternative fueling facilities program established under Chapter 393;

(12) the natural gas vehicle grant program and clean transportation triangle program established under Chapter 394;

(13) other programs the commission may develop that lead to reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds in a nonattainment area or affected county;

(14) other programs the commission may develop that support congestion mitigation to reduce mobile source ozone precursor emissions; and

(15) the drayage truck incentive program established under Subchapter D-1.

(b-1) Under the plan, the commission may establish and administer other programs, including other grants or funding programs, as determined by the commission to be necessary or effective in fulfilling its duties and achieving the objectives described under Section 386.052. The commission may apply the criteria and requirements applicable to the programs under Subsection (b) to programs established under this subsection, or the commission may establish separate criteria and requirements as necessary to achieve the commission's objectives. The additional programs shall be consistent with and comply with all applicable laws, regulations, and guidelines pertaining to the use of state funds, the awarding and administration of grants and contracts, and achieving reductions in ozone precursors or particulate matter. Under this subsection, the commission may place a priority on programs that address the following goals:

(1) reduction of emissions of oxides of nitrogen or particulate matter from heavy-duty on-road vehicles and non-road equipment, including drayage vehicles, locomotives, and marine vessels, at seaport facilities or servicing seaport facilities in nonattainment areas; and

(2) reduction of emissions from the operation of drilling, production, completions, and related heavy-duty on-road vehicles or non-road equipment in oil and gas production fields where the commission determines that the programs can help prevent that area or an adjacent area from being in violation of national ambient air quality standards.

(c) [Repealed by Acts 2013, 83rd Leg., ch. 1230 (S.B. 1727), § 25(1), effective June 14, 2013.]

(d) Equipment purchased before September 1, 2001, is not eligible for a grant or other funding under the plan.

(Enacted by Acts 2001, 77th Leg., ch. 967 (S.B. 5), § 1(b), effective September 1, 2001; am. Acts 2003, 78th Leg., 3rd C.S., ch. 11 (H.B. 37), § 3, effective October 20, 2003; am. Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 1, effective June 17, 2005; am. Acts 2009, 81st Leg., ch. 1125 (H.B. 1796), § 5, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 28 (S.B. 527), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1230 (S.B. 1727), §§ 1, 25(1), effective June 14, 2013.)

Sec. 386.052. [Expires August 31, 2019] Commission Duties.

(a) In administering the plan established under this chapter and in accordance with the requirements of this chapter, the commission:

(1) shall:

(A) manage plan funds and oversee the plan;

(B) produce guidelines, protocols, and criteria for eligible projects;

(C) develop methodologies for evaluating project cost-effectiveness;

(D) prepare reports regarding the progress and effectiveness of the plan; and

(E) take all appropriate and necessary actions so that emissions reductions achieved through the plan are credited by the United States Environmental Protection Agency to the appropriate emissions reduction objectives in the state implementation plan; and

(2) may hire staff and consultants needed to complete the commission's duties under this section and ensure timely review of applications and reimbursement of grant applicants' eligible project costs.

(b) Appropriate commission objectives include:

(1) achieving maximum reductions in oxides of nitrogen to demonstrate compliance with the state implementation plan;

(2) preventing areas of the state from being in violation of national ambient air quality standards;

(3) achieving cost-saving and multiple benefits by reducing emissions of other pollutants;

(4) achieving reductions of emissions of diesel exhaust from school buses; and

(5) advancing new technologies that reduce oxides of nitrogen and other emissions from facilities and other stationary sources.

(Enacted by Acts 2001, 77th Leg., ch. 967 (S.B. 5), § 1(b), effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 2, effective June 17, 2005; am. Acts 2007, 80th Leg., ch. 262 (S.B. 12), § 2.02, effective June 8, 2007; am. Acts 2009, 81st Leg., ch. 1125 (H.B. 1796), § 6, effective September 1, 2009.)

SUBCHAPTER F
TEXAS EMISSIONS REDUCTION PLAN FUND
[EXPIRES AUGUST 31, 2019]

Sec. 386.252. [Expires August 31, 2019] Use of Fund.

(a) Money in the fund may be used only to implement and administer programs established under the plan. Money appropriated to the commission to be used for the programs under Section 386.051(b) shall be allocated as follows:

(1) not more than four percent may be used for the clean school bus program under Chapter 390;

(2) not more than three percent may be used for the new technology implementation grant program under Chapter 391, from which at least $1 million will be set aside for electricity storage projects related to renewable energy;

(3) five percent shall be used for the clean fleet program under Chapter 392;

(4) not more than $3 million may be used by the commission to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission's oversight, including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;

(5) not less than 16 percent shall be used for the Texas natural gas vehicle grant program under Chapter 394;

(6) not more than five percent may be used to provide grants for natural gas fueling stations under the clean transportation triangle program under Section 394.010;

(7) not more than five percent may be used for the Texas alternative fueling facilities program under Chapter 393;

(8) a specified amount may be used each year to support research related to air quality as provided by Chapter 387;

(9) not more than $200,000 may be used for a health effects study;

(10) $500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties;

(11) at least $4 million and up to four percent to a maximum of $7 million, whichever is greater, is allocated to the commission for administrative costs;

(12) at least two percent and up to five percent of the fund is to be used by the commission for the drayage truck incentive program established under Subchapter D-1;

(13) not more than five percent may be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D;

(14) not more than $216,000 is allocated to the commission to contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan;

(15) 1.5 percent of the money in the fund is allocated for administrative costs incurred by the laboratory; and

(16) the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

(b) The commission may allocate unexpended money designated for the clean fleet program under Chapter 392 to other programs described under Subsection (a) after the commission allocates money to recipients under the clean fleet program.

(c) The commission may allocate unexpended money designated for the Texas alternative fueling facilities program under Chapter 393 to other programs described under Subsection (a) after the commission allocates money to recipients under the alternative fueling facilities program.

(d) The commission may reallocate money designated for the Texas natural gas vehicle grant program under Chapter 394 to other programs described under Subsection (a) if:

(1) the commission, in consultation with the governor and the advisory board, determines that

the use of the money in the fund for that program will cause the state to be in noncompliance with the state implementation plan to the extent that federal action is likely; and

(2) the commission finds that the reallocation of some or all of the funding for the program would resolve the noncompliance.

(e) Under Subsection (d), the commission may not reallocate more than the minimum amount of money necessary to resolve the noncompliance.

(e-1) Money allocated under Subsection (a) to a particular program may be used for another program under the plan as determined by the commission.

(f) Money in the fund may be used by the commission for programs under Sections 386.051(b)(13), (b)(14), and (b-1) as may be appropriated for those programs.

(g) If the legislature does not specify amounts or percentages from the total appropriation to the commission to be allocated under Subsection (a) or (f), the commission shall determine the amounts of the total appropriation to be allocated under each of those subsections, such that the total appropriation is expended while maximizing emissions reductions.

(h) Subject to the limitations outlined in this section and any additional limitations placed on the use of the appropriated funds, money allocated under this section to a particular program may be used for another program under the plan as determined by the commission.

(Enacted by Acts 2001, 77th Leg., ch. 967 (S.B. 5), § 1(b), effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1331 (H.B. 1365), § 12, effective June 22, 2003; am. Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 3, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1095 (H.B. 2129), § 3, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1125 (H.B. 2481), § 11, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1125 (H.B. 2481), § 12, effective September 1, 2008; am. Acts 2007, 80th Leg., ch. 262 (S.B. 12), §§ 2.09, 2.19, effective June 8, 2007; am. Acts 2009, 81st Leg., ch. 1125 (H.B. 1796), § 23, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1232 (S.B. 1759), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 28 (S.B. 527), § 3, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 589 (S.B. 20), §§ 1, 2, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 892 (S.B. 385), §§ 1, 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 10.003(a), effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1230 (S.B. 1727), §§ 16—19, 25(7), (8), effective June 14, 2013.)

CHAPTER 390
CLEAN SCHOOL BUS PROGRAM [EXPIRES AUGUST 31, 2019]

Section

Sec. 390.001. [Expires August 31, 2019] Definitions.

In this chapter:

(1) "Diesel exhaust" means one or more of the air pollutants emitted from an engine by the combustion of diesel fuel, including particulate matter, nitrogen oxides, volatile organic compounds, air toxics, and carbon monoxide.

(2) "Incremental cost" has the meaning assigned by Section 386.001.

(3) "Program" means the clean school bus program established under this chapter.

(4) "Qualifying fuel" includes any liquid or gaseous fuel or additive registered or verified by the United States Environmental Protection Agency, other than standard gasoline or diesel, that is ultimately dispensed into a school bus that provides reductions of emissions of particulate matter.

(5) "Retrofit" has the meaning assigned by Section 386.101.

(Enacted by Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 4, effective June 17, 2005.)

Sec. 390.002. [Expires August 31, 2019] Program.

(a) The commission shall establish and administer a clean school bus program designed to reduce the exposure of school children to diesel exhaust in and around diesel-fueled school buses. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects that reduce emissions of diesel exhaust.

(b) Projects that may be considered for a grant under the program include:

(1) diesel oxidation catalysts for school buses built before 1994;

(2) diesel particulate filters for school buses built from 1994 to 1998;

(3) the purchase and use of emission-reducing add-on equipment for school buses, including devices that reduce crankcase emissions;

(4) the use of qualifying fuel; and

(5) other technologies that the commission finds will bring about significant emissions reductions.

(Enacted by Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 4, effective June 17, 2005.)

Sec. 390.003. [Expires August 31, 2019] Application for Grant.

(a) A school district in this state that operates one or more diesel-fueled school buses or a transportation system provided by a countywide school district may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to also apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

(Enacted by Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 4, effective June 17, 2005.)

Sec. 390.004. [Expires August 31, 2019] Eligibility of Projects for Grants.

(a) The commission by rule shall establish criteria for setting priorities for projects eligible to receive grants under this chapter. The commission shall review and may modify the criteria and priorities as appropriate.

(b) A school bus proposed for retrofit must be used on a regular, daily route to and from a school and have at least five years of useful life remaining unless the applicant agrees to remove the retrofit device at the end of the life of the bus and reinstall the device on another bus.

(Enacted by Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 4, effective June 17, 2005.)

Sec. 390.005. [Expires August 31, 2019] Restriction on Use of Grant.

A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the grant is made, which may include the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

(Enacted by Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 4, effective June 17, 2005.)

Sec. 390.006. [Expires August 31, 2019] Expiration.

This chapter expires August 31, 2019.

(Enacted by Acts 2005, 79th Leg., ch. 766 (H.B. 3469), § 4, effective June 17, 2005; am. Acts 2009, 81st Leg., ch. 1125 (H.B. 1796), § 17, effective September 1, 2009.)

TITLE 6

FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE A
FOOD AND DRUG HEALTH REGULATIONS

CHAPTER 435
DAIRY PRODUCTS

Subchapter B. Special Requirements; Sale of Milk

Section

SUBCHAPTER B
SPECIAL REQUIREMENTS; SALE OF MILK

Sec. 435.021. Imported Milk.

(a) In this section:

(1) "Political subdivision" means a county or municipality or a school, junior college, water, hospital, reclamation, or other special-purpose district.

(2) "State agency" means an agency, department, board, or commission of the state or a state eleemosynary, educational, rehabilitative, correctional, or custodial facility.

(b) A state agency or political subdivision may not purchase milk, cream, butter, or cheese, or a product consisting largely of one or more of those items, that has been imported from outside the United States.

(c) This section does not apply to the purchase of milk powder if domestic milk powder is not readily available in the normal course of business.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 1100 (S.B. 1046), § 5.06(b),

effective September 1, 1989 (renumbered from Sec. 435.022).)

SUBTITLE C
SUBSTANCE ABUSE REGULATION AND CRIMES

CHAPTER 481
TEXAS CONTROLLED SUBSTANCES ACT

Subchapter D. Offenses and Penalties

Section
481.134. Drug-Free Zones.

SUBCHAPTER D
OFFENSES AND PENALTIES

Sec. 481.134. Drug-Free Zones.

(a) In this section:

(1) "Minor" means a person who is younger than 18 years of age.

(2) "Institution of higher education" means any public or private technical institute, junior college, senior college or university, medical or dental unit, or other agency of higher education as defined by Section 61.003, Education Code.

(3) "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more play stations intended for the recreation of children, such as slides, swing sets, and teeterboards.

(4) "Premises" means real property and all buildings and appurtenances pertaining to the real property.

(5) "School" means a private or public elementary or secondary school or a day-care center, as defined by Section 42.002, Human Resources Code.

(6) "Video arcade facility" means any facility that:

(A) is open to the public, including persons who are 17 years of age or younger;

(B) is intended primarily for the use of pinball or video machines; and

(C) contains at least three pinball or video machines.

(7) "Youth center" means any recreational facility or gymnasium that:

(A) is intended primarily for use by persons who are 17 years of age or younger; and

(B) regularly provides athletic, civic, or cultural activities.

(b) An offense otherwise punishable as a state jail felony under Section 481.112, 481.113, 481.114, or 481.120 is punishable as a felony of the third degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises owned, rented, or leased by an institution of higher learning, the premises of a public or private youth center, or a playground; or

(2) in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility.

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)—(f), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of the premises of a school, the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(d) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.1161(b)(3), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(e) An offense otherwise punishable under Section 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(f) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a

school or school board, the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(g) Subsection (f) does not apply to an offense if:

(1) the offense was committed inside a private residence; and

(2) no minor was present in the private residence at the time the offense was committed.

(h) Punishment that is increased for a conviction for an offense listed under this section may not run concurrently with punishment for a conviction under any other criminal statute.

(Enacted by Acts 1993, 73rd Leg., ch. 888 (S.B. 16), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 39, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 38, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1063 (S.B. 1539), § 9, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 570 (H.B. 1629), § 3, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 452 (H.B. 2467), §§ 1, 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 170 (S.B. 331), § 6, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 452 (H.B. 2467), § 3 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

TITLE 9
SAFETY

SUBTITLE A
PUBLIC SAFETY

CHAPTER 756
MISCELLANEOUS HAZARDOUS CONDITIONS

Subchapter E. Publicly Funded Playgrounds

Section

SUBCHAPTER E
PUBLICLY FUNDED PLAYGROUNDS

Sec. 756.061. Compliance with Safety Standards.

(a) Notwithstanding any other rule or statute, and except as provided by Subsection (b), on or after September 1, 2009, public funds may not be used:

(1) to purchase playground equipment that:

(A) does not comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use" published by ASTM International; or

(B) has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed;

(2) to purchase surfacing for the area under and around playground equipment if the surfacing will not comply, on completion of installation of the surfacing, with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International; or

(3) to pay for installation of playground equipment or surfacing if the installation will not comply, on completion of the installation, with each applicable provision of the specifications described by Subdivision (1) or (2), as applicable.

(b) Public funds may be used for maintenance of playground equipment or surfacing for the area under and around playground equipment that was purchased before September 1, 2009, even if the equipment or surfacing does not comply, on completion of the maintenance, with each applicable provision of the specifications described by Subsections (a)(1) and (a)(2).

(c) This section:

(1) does not create, increase, decrease, or otherwise affect a person's liability for damages for injury, death, or other harm caused by playground equipment, surfacing, or the installation of the equipment or surfacing; and

(2) is not a waiver of sovereign immunity of any governmental entity.

(Enacted by Acts 1995, 74th Leg., ch. 896 (H.B. 632), § 1, effective August 28, 1995; am. Acts 2009, 81st

Leg., ch. 1009 (H.B. 4127), § 1, effective September 1, 2009.)

SUBTITLE C
FIRE

CHAPTER 791
FIRE ESCAPES

Subchapter A. General Provisions

Subchapter D. Additional Fire Escape Requirements for Certain School Buildings

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 791.002. Fire Escape Required.

(a) The owner of a building shall equip the building with at least one fire escape and with additional fire escapes as required by Subchapters C and D if the building has at least:

(1) three stories and is used as a facility subject to Subchapter C; or

(2) two stories and is used as a school.

(b) A fire escape required by this chapter must meet the specifications provided by this chapter for an exterior stairway fire escape, an exterior chute fire escape, a combination of those exterior fire escapes, or an interior fire escape.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

SUBCHAPTER D
ADDITIONAL FIRE ESCAPE REQUIREMENTS FOR CERTAIN SCHOOL BUILDINGS

Sec. 791.031. Definitions.

(a) In this subchapter, "story" means the space between two successive floor levels of a building, and a basement is a story if the floor level immediately above the basement is at least 10 feet above the grade line on at least one side of the building.

(b) In this subchapter, types of construction are classified as "fireproof," "semifireproof," or "ordinary," as those terms are defined in the most recent edition of the building code published by the successor organization to the National Board of Fire Underwriters.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 791.032. Application.

This subchapter applies to a building in which a school of any kind is conducted and that is:

(1) at least two stories high; and

(2) owned by a school district.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 791.033. Compliance Requirements.

Each person who has charge or supervision of a school building subject to this subchapter, or who has charge or supervision of the letting of contracts for the construction of the building, shall comply with this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 791.034. Administration; Enforcement.

(a) The state fire marshal shall administer and supervise the enforcement of this subchapter and Section 791.024.

(b) The state fire marshal, an inspector of the State Board of Insurance, the chief of any fire department, and any municipal fire marshal shall enforce this subchapter and Section 791.024 by all lawful means.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 791.035. Fire Escape Requirement.

(a) A school building of at least three stories and of fireproof construction, semifireproof construction, or ordinary construction shall have one fire escape for each group of 250 pupils, or each major fraction of that number, who are housed in the building at a level above the first floor.

(b) A school building of two stories and of ordinary construction shall have one fire escape for each group of 250 pupils, or each major fraction of that number, who are housed in the building at a level above the first floor.

(c) A school building of two stories that is of fireproof or semifireproof construction or that has stairways and hallways of that type of construction is not required to have a fire escape.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 791.036. Required Types of Fire Escapes; Specifications.

(a) A fire escape for a school building constructed before March 17, 1950, may be either an interior fire escape or an exterior fire escape.

(b) A school building constructed on or after March 17, 1950, that consists of at least three stories of fireproof construction or at least two stories of ordinary construction shall have interior fire escapes.

(c) An exterior fire escape for a school building constructed before March 17, 1950, may be:

(1) an iron, steel, or concrete stairway;

(2) an iron or steel straight chute;

(3) an iron or steel spiral chute; or

(4) a fire escape that is a combination of those types.

(d) Exterior fire escapes used in school buildings must meet the construction requirements of this section or similar construction requirements approved by the successor organization to the National Board of Fire Underwriters. Except as otherwise provided by this section, exterior fire escapes must be:

(1) constructed throughout of noncombustible materials;

(2) designed for a live load of 100 pounds per square foot; and

(3) supported by vertical steel columns.

(e) If it is impossible to use vertical steel columns in the construction of an exterior fire escape, the use of steel brackets with bolts extending through the entire thickness of the wall may be approved.

(f) The landings and treads of exterior fire escapes must be of solid hatched steel plate or of steel gratings with interstices that do not exceed three-fourths inch and must be designed so that any accumulation of ice and snow is reduced to a minimum.

(g) The guardrails of exterior fire escapes must be at least three feet six inches high and must be substantially constructed. The guardrails must be faced either with heavy wire mesh or by steel balusters or rails not more than 9-½ inches o.c.

(h) The fire escape must have handrails on each side of the stairs that must be securely attached to the guardrails or to the building walls. Handrails must be two feet four inches to two feet six inches above the nosings.

(i) The calculated live load of an exterior fire escape must be clearly stated on the plans submitted for approval.

(j) Exterior fire escapes must be:

(1) free from obstruction;

(2) constructed in a manner that provides a safe exit for children;

(3) conveniently accessible from each floor above the first floor; and

(4) of sufficient width and strength so that each step and landing may accommodate two adults at the same time.

(k) If the Texas Education Agency approves that construction as providing a convenient and safe passage, doorways may be used as exits from each floor. The base of a doorway must be at the same level as the corresponding floor of the building and the landing of the fire escape to which the doorway leads. A doorway must be at least three feet wide and six feet six inches high and must be fitted with panic hardware approved by the successor organization to the National Board of Fire Underwriters. If there are two or more rooms or hallways adjacent and convenient to the landing of a fire escape, each room or hallway must have a doorway leading to that landing.

(*l*) The design of an interior fire escape used in a school building must meet the specifications required under Section 791.014, and must have:

(1) stairs and landings at least three feet six inches long and at least three feet wide;

(2) treads at least nine inches wide with a one inch nosing; and

(3) risers of not more than 7-¼ inches.

(m) A rise in a single run may not exceed nine feet six inches. A longer run must be interrupted by landings at least as deep as the width of the stairs.

(n) Stairs must extend continuously to the ground. Counterbalanced or swinging sections may not be approved.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.51, effective September 1, 1997.)

Sec. 791.037. Exterior Fire Escape Exits.

(a) An exit door leading to an exterior fire escape must open on a landing that is at least the width of the doors. The door must swing outward and be:

(1) at least three feet by six feet six inches;

(2) glazed with wire glass; and

(3) level at the bottom with the floors of the rooms or hallways and landings that it serves.

(b) An exit door may be secured only by panic hardware approved by the successor organization to the National Board of Fire Underwriters. Hooks, latches, bolts, locks, and similar devices are prohibited.

(c) A window may not be used as a means of access to an exterior fire escape.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Sec. 791.038. Windows.

A window located beneath or within 10 feet of a fire escape must be glazed with wire glass.

(Enacted by Acts 1989, 71st Leg., ch. 678 (H.B. 2136), § 1, effective September 1, 1989.)

Human Resources Code

TITLE 7
REHABILITATION OF INDIVIDUALS WITH DISABILITIES

CHAPTER 114
TEXAS COUNCIL ON AUTISM AND PERVASIVE DEVELOPMENTAL DISORDERS

Section

Sec. 114.001. Short Title.

This chapter may be cited as the Texas Council on Autism and Pervasive Developmental Disorders Act of 1987.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 2, effective September 1, 2005.)

Sec. 114.002. Definitions.

In this chapter:

(1) "Autism and other pervasive developmental disorders" means a subclass of mental disorders characterized by distortions in the development of multiple basic psychological functions that are involved in the development of social skills and language, as defined by the Diagnostic and Statistical Manual (DSM-5), 5th Edition.

(2) "Council" means the Texas Council on Autism and Pervasive Developmental Disorders.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 3, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 536 (S.B. 519), § 1, effective September 1, 2013.)

Sec. 114.003. Council.

(a) The Texas Council on Autism and Pervasive Developmental Disorders is established.

(b) The council is composed of:

(1) seven public members, the majority of whom are family members of a person with autism or a pervasive developmental disorder, appointed by the governor with the advice and consent of the senate; and

(2) one representative from each of the following state agencies, to serve as ex officio members:

(A) Department of Aging and Disability Services;

(B) Department of State Health Services;

(C) Health and Human Services Commission;

(D) Texas Education Agency;

(E) Department of Assistive and Rehabilitative Services; and

(F) Department of Family and Protective Services.

(c) The commissioner or executive head of each state agency shall appoint as that agency's representative the person in the agency who is most familiar with and best informed about autism and other pervasive developmental disorders. An ex officio member serves in an advisory capacity only and may not:

(1) serve as chairperson; or

(2) vote.

(d) The public members appointed by the governor serve staggered two-year terms with the terms of three or four members expiring on February 1 of each year. The public members may be reappointed. A representative of a state agency serves at the pleasure of the commissioner or executive head of that agency. A public member is entitled to reimbursement of the travel expenses incurred by the public member while conducting the business of the council, as provided in the General Appropriations Act.

(e) The governor shall designate a public member of the council as the chairman of the council to serve in that capacity at the pleasure of the governor.

(f) The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(g) Any actions taken by the council must be approved by a majority vote of the public members present.

(h) The council shall establish policies and adopt rules to carry out its duties under this chapter.
(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.65, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 78 (S.B. 361), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 4, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 5, effective September 1, 2005.)

Sec. 114.004. Staff Support.

The agencies represented on the council shall provide staff support to the council from among the agency staff who are responsible for coordinating services to persons with autism or other pervasive developmental disorders or to those persons' families. The council may require the employment of staff to carry out the responsibilities of the council. The executive commissioner of the Health and Human Services Commission shall determine which agency must employ staff for the council and what funding resources shall be used for the council.
(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2001, 77th Leg., ch. 78 (S.B. 361), § 2, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 6, effective September 1, 2005.)

Sec. 114.005. Advisory Task Force.

(a) The council shall establish an advisory task force composed of professionals, advocacy groups, and family members of persons with autism or other pervasive developmental disorders. The council shall appoint as many members to the task force as the council considers necessary to assist the council in performing its duties.

(b) The chair of the council shall appoint the chair of the task force, and the task force shall meet and serve in accordance with council rules. The council may divide the task force into regional committees to assist the council in community level program planning and implementation.

(c) A member of the task force may be appointed or removed without cause by a majority vote of the public members of the council present at a council meeting.
(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 7, effective September 1, 2005.)

Sec. 114.006. State Plan.

(a) The council shall develop a state plan to provide services to persons with autism or other pervasive developmental disorders to ensure that:

(1) the needs of those persons and their families are addressed statewide and that all available resources are coordinated to meet those needs;

(2) within existing resources, the full range of services that are available through existing state agencies is offered to those persons throughout their lives to the maximum extent possible;

(3) personnel training needs are assessed statewide and strategies are developed to meet those needs;

(4) incentives are offered to private sources to encourage the sources to maintain present commitments and to assist in developing new programs; and

(5) a procedure for reviewing individual complaints about services provided under this chapter is implemented.

(b) The council shall make written recommendations on the implementation of this chapter. If the council considers a recommendation that will affect an agency not represented on the council, the council shall seek the advice and assistance of the agency before taking action on the recommendation. On approval of the governing body of the agency, each agency affected by a council recommendation shall implement the recommendation. If an agency does not have sufficient funds to implement a recommendation, the agency shall request funds for that purpose in its next budget proposal.

(c) [Repealed by Acts 2001, 77th Leg., ch. 78 (S.B. 361), § 3, effective September 1, 2001.]
(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2001, 77th Leg., ch. 78 (S.B. 361), § 3, effective September 1, 2001.)

Sec. 114.007. Duties.

(a) The council shall provide recommendations to the Health and Human Services Commission and other appropriate state agencies responsible for implementing this chapter, including recommendations relating to the use of funds appropriated to the commission or another health and human services agency to provide services to persons with autism or other pervasive developmental disorders.

(b) The council with the advice of the advisory task force and input from people with autism and other pervasive developmental disorders, their families, and related advocacy organizations shall address contemporary issues affecting services available to persons with autism or other pervasive developmental disorders in this state, including:

(1) successful intervention and treatment strategies, including transitioning;

(2) personnel preparation and continuing education;

(3) referral, screening, and evaluation services;

(4) day care, respite care, or residential care services;

(5) vocational and adult training programs;

(6) public awareness strategies;

(7) contemporary research;

(8) early identification strategies;

(9) family counseling and case management; and

(10) recommendations for monitoring autism service programs.

(c) The council with the advice of the advisory task force and input from people with autism and other pervasive developmental disorders, their families, and related advocacy organizations shall advise the legislature on legislation that is needed to develop further and to maintain a statewide system of quality intervention and treatment services for all persons with autism or other pervasive developmental disorders. The council may develop and recommend legislation to the legislature or comment on pending legislation that affects those persons.

(d) The council shall identify and monitor apparent gaps in services currently available from various state agencies for persons with autism or other pervasive developmental disorders and shall advocate improvements on behalf of those persons.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 8, effective September 1, 2005.)

Sec. 114.008. Report.

(a) The agencies represented on the council and the public members shall report to the council any requirements identified by the agency or person to provide additional or improved services to persons with autism or other pervasive developmental disorders. Not later than November 1 of each even-numbered year, the council shall prepare and deliver to the executive commissioner of the Health and Human Services Commission, the governor, the lieutenant governor, and the speaker of the house of representatives a report summarizing the recommendations.

(b) The council shall develop a strategy for establishing new programs to meet the requirements identified through the council's review and assessment and from input from the task force, people with autism and related pervasive developmental disorders, their families, and related advocacy organizations.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 9, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 73, effective September 1, 2013.)

Sec. 114.009. Program Guidelines.

The council shall develop specific program guidelines for:

(1) instructional or treatment options;

(2) frequency and duration of services;

(3) ratio of staff to affected persons;

(4) staff composition and qualifications;

(5) eligibility determination; and

(6) other program features designed to ensure the provision of quality services.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987.)

Sec. 114.010. Funding Requests for Programs.

(a) A public or private service provider may apply for available funds to provide a program of intervention services for eligible persons with autism or other pervasive developmental disorders in areas of identified needs.

(b) To apply for funds, a person must submit a grant request to the council.

(c) The council shall adopt rules governing the submission and processing of funding requests.

(d) Funds may be appropriated from available resources to allow the council to provide recommendations to the Health and Human Services Commission and other appropriate state agencies responsible for implementing this chapter, including recommendations relating to the use of funds appropriated to the commission or another health and human services agency to provide services to persons with autism or other pervasive developmental disorders.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 10, effective September 1, 2005.)

Sec. 114.011. Approval Criteria.

(a) The council shall review each request for program funding on a competitive basis and shall consider:

(1) the extent to which the program would meet identified needs;

(2) the cost of initiating the program, if applicable;

(3) whether other funding sources are available;

(4) the proposed cost of the services to the client or the client's family; and

(5) the assurance of quality services.

(b) The council may not approve a funding request for a new program unless the service provider agrees to:

(1) operate and maintain the program within the guidelines established by the council;

(2) develop for each person with autism or other pervasive developmental disorders an individualized developmental plan that:

(A) includes family participation and periodic review and reevaluation; and

(B) is based on a comprehensive developmental evaluation conducted by an interdisciplinary team;

(3) provide services to meet the unique needs of each person with autism or other pervasive developmental disorders as indicated by the person's individualized developmental plan; and

(4) develop a method in accordance with rules adopted by the council and approved by the council to respond to individual complaints relating to services provided by the program.

(c) The council shall develop with the Health and Human Services Commission and any agency designated by the commission procedures for allocating available funds to programs approved under this section.

(d) This chapter does not affect the existing authority of a state agency to provide services to a person with autism or other pervasive developmental disorders if the person meets the eligibility criteria established by this chapter. The council may modify the program standards if the council considers the modifications necessary for a particular program.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987; am. Acts 2005, 79th Leg., ch. 838 (S.B. 882), § 11, effective September 1, 2005.)

Sec. 114.012. Fees for Services.

(a) A service provider may charge a fee for services that is based on the client's or family's ability to pay. The fee must be used to offset the cost of providing or securing the services. If a service provider charges a fee, the provider must charge a separate fee for each type of service. In determining a client's or family's ability to pay for services, the provider must consider the availability of financial assistance or other benefits for which the client or family may be eligible.

(b) A state agency may charge a fee for services provided by the agency under this chapter that is based on the client's or family's ability to pay.

(Enacted by Acts 1987, 70th Leg., ch. 956 (S.B. 257), § 9.01, effective September 1, 1987.)

Sec. 114.013. Autism Spectrum Disorders Resource Center.

(a) The Health and Human Services Commission shall establish and administer an autism spectrum disorders resource center to coordinate resources for individuals with autism and other pervasive developmental disorders and their families. In establishing and administering the center, the Health and Human Services Commission shall consult with the council and coordinate with appropriate state agencies, including each agency represented on the council.

(b) The Health and Human Services Commission shall design the center to:

(1) collect and distribute information and research regarding autism and other pervasive developmental disorders;

(2) conduct training and development activities for persons who may interact with an individual with autism or another pervasive developmental disorder in the course of their employment, including school, medical, or law enforcement personnel;

(3) coordinate with local entities that provide services to an individual with autism or another pervasive developmental disorder; and

(4) provide support for families affected by autism and other pervasive developmental disorders.

(Enacted by Acts 2009, 81st Leg., ch. 177 (H.B. 1574), § 1, effective September 1, 2009.)

TITLE 8

RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES

CHAPTER 121
PARTICIPATION IN SOCIAL AND ECONOMIC ACTIVITIES

Section

Sec. 121.003. Discrimination Prohibited.

(a) Persons with disabilities have the same right as the able-bodied to the full use and enjoyment of any public facility in the state.

(b) **[2 Versions: Effective Until January 1, 2014]** No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability solely because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal, wheelchair, crutches, or other device used to assist a person with a disability in travel.

(b) **[2 Versions: Effective January 1, 2014]** No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of a service animal, wheelchair, crutches, or other device used to assist a person with a disability in travel.

(c) No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.

(d) **[2 Versions: Effective Until January 1, 2014]** The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to:

(1) comply with Article 9102, Revised Statutes;

(2) make reasonable accommodations in policies, practices, and procedures; or

(3) provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

(d) **[2 Versions: Effective January 1, 2014]** The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to:

(1) comply with Chapter 469, Government Code;

(2) make reasonable accommodations in policies, practices, and procedures; or

(3) provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

(e) Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.

(f) It is the policy of the state that persons with disabilities be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as persons without disabilities, unless it is shown that there is no reasonable accommodation that would enable a person with a disability to perform the essential elements of a job.

(g) Persons with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(h) **[2 Versions: Effective Until January 1, 2014]** A person with a total or partial disability who has or obtains an assistance animal is entitled to full and equal access to all housing accommodations provided for in this section, and may not be required to pay extra compensation for the animal but is liable for damages done to the premises by the animal.

(h) **[2 Versions: Effective January 1, 2014]** A person with a total or partial disability who has or obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and may not be required to pay extra compensation or make a deposit for the animal but is liable for damages done to the premises by the animal except for reasonable wear and tear.

(i) **[2 Versions: Effective Until January 1, 2014]** An assistance animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer who is an agent of an organization generally recognized by agencies involved in the rehabilitation of persons who are disabled as reputable and competent to provide training for assistance animals, and/or their handlers.

(i) **[2 Versions: Effective January 1, 2014]** A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

(j) A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal.

(k) **[Effective January 1, 2014]** Except as provided by Subsection (l), a person is not entitled to make demands or inquiries relating to the qualifi-

cations or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability.

(*l*) **[Effective January 1, 2014]** If a person's disability is not readily apparent, for purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:

(1) whether the service animal is required because the person has a disability; and

(2) what type of work or task the service animal is trained to perform.

(Enacted by Acts 1979, 66th Leg., ch. 842 (H.B. 1834), art. 1, § 1, effective September 1, 1979; am. Acts 1981, 67th Leg., ch. 865 (H.B. 1109), § 2, effective August 31, 1981; am. Acts 1983, 68th Leg., 1st C.S., ch. 7 (H.B. 14), § 10.03(c), effective September 23, 1983; am. Acts 1985, 69th Leg., ch. 278 (H.B. 2086), § 2, effective June 5, 1985; am. Acts 1989, 71st Leg., ch. 249 (H.B. 2601), § 1, effective September 1, 1989; am. Acts 1995, 74th Leg., ch. 890 (H.B. 238), § 2, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 649 (H.B. 2525), § 4, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 261 (S.B. 1034), § 1, effective May 22, 2001; am. Acts 2003, 78th Leg., ch. 710 (H.B. 2881), § 1, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 838 (H.B. 489), § 3, effective January 1, 2014.)

Insurance Code

TITLE 1
THE INSURANCE CODE OF 1951

CHAPTER 3
LIFE, HEALTH AND ACCIDENT INSURANCE

Subchapter E. Group, Industrial and Credit Insurance

SUBCHAPTER E
GROUP, INDUSTRIAL AND CREDIT INSURANCE

Art. 3.50-7A. [2 Versions: As added by Acts 2003, 78th Leg., ch. 201] Limitations Applicable to Texas School Employees Uniform Group Coverage Program [Repealed].

Repealed by Acts 2007, 80th Leg. ch. 730 (H.B. 2636), § 1L.001(a)(3), effective April 1, 2009.
(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 56, effective September 1, 2003.)

Art. 3.50-7A. [2 Versions: As added by Acts 2003, 78th Leg., ch. 213] Prior Authorization for Certain Drugs Provided Under Texas School Employees Uniform Group Coverage Program [Repealed].

Repealed by Acts 2007, 80th Leg. ch. 730 (H.B. 2636), § 1L.001(a)(4), effective April 1, 2009.
(Enacted by Acts 2003, 78th Leg., ch. 213 (S.B. 1173), § 4, effective September 1, 2003.)

Art. 3.50-7B. Disease Management Services [Repealed].

Repealed by Acts 2007, 80th Leg. ch. 730 (H.B. 2636), § 1L.001(a)(2), effective April 1, 2009.
(Enacted by Acts 2003, 78th Leg., ch. 589 (H.B. 1735), § 2, effective June 20, 2003.)

Art. 3.50-8A. Administration of Active Employee Health Coverage or Compensation Supplementation [Expired].

Expired pursuant to Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 16.09, effective September 1, 2004.
(Enacted by Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 16.09, effective January 11, 2004.)

Art. 3.51. Group Insurance for Employees of State and Its Subdivisions and College and School Employees.

Sec. 1. (a) The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, associations of public employees, and the governing boards and authorities of each state university, colleges, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts with any insurance company authorized to do business in this state insuring their respective employees, or if an association of public employees is the policyholder, insuring its respective members, or any class or classes thereof under a policy or policies of group health, accident, accidental death and dismemberment, disability income replacement and hospital, surgical and/or medical expense insurance or a group contract providing for annuities. The dependents of any such employees or association members, as the case may be, may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The insureds' contributions to the premiums for such insurance or annuities issued to the employer or to an association of public employees as the policyholder may be deducted by the employer from the insureds' salaries when authorized in writing by the respective employees so to do. The premium for the policy or contract may be paid in whole or in part from funds contributed by the employer or in

whole or in part from funds contributed by the insured employees. When an association of public employees is the holder of such a policy of insurance or contract, the premium for employees that are members of such association may be paid in whole or in part by the State of Texas or other agency authorized to procure contracts or policies of insurance under this section, or in whole or in part from funds contributed by the insured employees that are members of such association; provided, however, that any monies or credits received by or allowed to the policyholder or contract holder pursuant to any participation agreement contained in or issued in connection with the policy or contract shall be applied to the payment of future premiums and to the pro rata abatement of the insured employee's contribution therefor.

The term employees as used herein in addition to its usual meaning shall include elective and appointive officials of the state.

(b) Independent School Districts procuring policies insuring their employees under this Section may pay all or any portion of the premiums on such policies from the local funds of such Independent School District, but in no event shall any part of such premiums be paid from funds paid such districts by the State of Texas.

Sec. 2. All group insurance contracts effected pursuant hereto shall conform and be subject to all the provisions of any existing or future laws concerning group insurance.

Sec. 3. (a) Notwithstanding any other provision of this article, a common or independent school district or any other agency or subdivision of the public school system of this state that is participating in the uniform group coverage program established under Article 3.50-7 of this code may not procure contracts under this article for health insurance coverage and may not renew a health insurance contract procured under this article after the date on which the program of coverages provided under Article 3.50-7 of this code is implemented.

(b) This section does not preclude an entity described by Subsection (a) of this section from procuring contracts under this article for the provision of optional insurance coverages for the employees of the entity.

(Am. Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 31(b)(12), effective June 1, 2003.)

Art. 3.51-2. County and Political Subdivision of the State of Texas—Officials, Employees, and Retirees [Repealed].

Repealed by Acts 2007, 80th Leg. ch. 730 (H.B. 2636), § 1L.001(a)(2), effective April 1, 2009.

TITLE 7
LIFE INSURANCE AND ANNUITIES

SUBTITLE B
GROUP LIFE INSURANCE

CHAPTER 1131
GROUP LIFE INSURANCE AND WHOLESALE, FRANCHISE, OR EMPLOYEE LIFE INSURANCE

Subchapter A. General Provisions

Subchapter B. Group and Wholesale, Franchise, or Employee Life Insurance: Eligible Policyholders

Subchapter C. Group Life Insurance: Required Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1131.001. Definition.

In this chapter, "wholesale, franchise, or employee life insurance" means a term life insurance plan

under which a number of individual term life insurance policies are issued to a selected group at a rate that is lower than the rate shown in the issuing insurer's manual for an individually issued policy of the same type issued to an insured of the same class.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.002. Certain Group Life Insurance Authorized.

A group life insurance policy may be delivered in this state only if the policy:

(1) covers a group described by Subchapter B; and

(2) complies with this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.003. Certain Wholesale, Franchise, or Employee Life Insurance Authorized.

A wholesale, franchise, or employee life insurance policy may be issued or delivered in this state only if the policy:

(1) covers a group described by Section 1131.065; and

(2) complies with Subchapter P.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.004. Forfeiture of Certificate of Authority for Unauthorized Group Life Insurance Contract.

The certificate of authority to engage in the business of insurance in this state of an insurer that enters into a group life insurance contract other than as authorized by this chapter may be forfeited by an action brought for that purpose by the attorney general at the department's request.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.005. Guaranteeing Issuance of Life Insurance Policy Without Evidence of Insurability.

(a) In this section, "qualified pension or profit-sharing plan" means a plan that meets the requirements of:

(1) Section 401 or 403, Internal Revenue Code of 1986, and their subsequent amendments; or

(2) any corresponding provisions of prior or subsequent United States revenue laws.

(b) This code does not prohibit a life insurance company authorized to engage in the business of insurance in this state from guaranteeing to issue individual life insurance policies insuring participants in a qualified pension or profit-sharing plan on other than the term plan without evidence of insurability.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.006. Assignment of Benefits.

(a) Subject to the terms of a group life insurance policy, an insured under the policy may make to any individual, firm, corporation, association, trust, or other legal entity, other than the insured's employer, an absolute or collateral assignment of all rights and benefits conferred on the insured by the policy or by Subchapter C.

(b) Subsection (a) applies without regard to the date a policy is issued.

(c) Subject to the terms of the policy, an assignment by an insured before September 1, 1969, is valid for the purpose of vesting in the assignee all assigned rights and privileges but without prejudice to the insurer because of any payment the insurer makes or individual policy the insurer issues before receiving notice of the assignment.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.007. Policy Form.

A policy of group life insurance is subject to Chapter 1701.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 730 (H.B. 2636), § 2F.007, effective April 1, 2009.)

SUBCHAPTER B
GROUP AND WHOLESALE, FRANCHISE, OR EMPLOYEE LIFE INSURANCE: ELIGIBLE POLICYHOLDERS

Sec. 1131.051. Employers.

(a) A group life insurance policy may be issued to an employer or to trustees of a fund established by an employer to insure the employer's employees for the benefit of persons other than the employer.

(b) A policy to which this section applies may provide that "employee" includes:

(1) an individual proprietor or partner, if the employer is an individual proprietorship or partnership;

(2) an employee of a subsidiary corporation of the employer;

(3) an employee, individual proprietor, or partner of an affiliated corporation, proprietorship, or partnership, if the business of the employer and

the affiliated corporation, proprietorship, or partnership is under common control through stock ownership, contract, or otherwise; or

(4) a retired employee.

(c) The employer or the trustees of a fund established by an employer are the policyholder under a policy to which this section applies.

(d) A policy to which this section applies is subject to Subchapter E.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.052. Labor Unions.

(a) A group life insurance policy may be issued to a labor union to insure the union's members who are actively engaged in the same occupation.

(b) For purposes of this chapter:

(1) a labor union is considered to be an employer; and

(2) a member of a labor union is considered to be an employee of the union.

(c) The labor union is the policyholder under a policy to which this section applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.053. Funds Established by Employers or Labor Unions.

(a) A group life insurance policy that insures the employers' employees or the unions' members for the benefit of persons other than the employers or unions may be issued to the trustees of a fund established or adopted by two or more employers in the same industry or by one or more labor unions, by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades.

(b) A policy to which this section applies may provide that "employee" includes:

(1) an individual proprietor or partner, if the employer is an individual proprietorship or partnership;

(2) a trustee, an employee of the trustee, or both, if the person's duties are principally connected with the trusteeship; or

(3) a retired employee.

(c) The trustees are the policyholder under a policy to which this section applies.

(d) A policy may not be issued under this section to insure employees of:

(1) an employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, without regard to whether the other employer participates in the fund; or

(2) an employer that is not located in this state, unless:

(A) the majority of the employers whose employees are to be insured are located in this state; or

(B) the policy is issued to the trustees of a fund established or adopted by one or more labor unions.

(e) A policy to which this section applies is subject to Subchapter F.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 689 (H.B. 2690), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 689 (H.B. 2690), § 2 provides: "This Act applies only to an insurance policy or contract or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2010. An insurance policy or contract or evidence of coverage delivered, issued for delivery, or renewed before January 1, 2010, is governed by the law as it existed immediately before the effective date of this Act [September 1, 2009], and that law is continued in effect for that purpose."

Sec. 1131.054. Governmental Entities or Associations of Public Employees.

(a) In this section, "employee" includes an elected or appointed officer of the state.

(b) A group life insurance policy may be issued to a governmental entity or an association of public employees listed in Subsection (c) to insure the governmental entity's employees or the association's members for the benefit of persons other than the governmental entity or association.

(c) This section authorizes issuance of a group life insurance policy to:

(1) a municipality, independent school district, or common school district;

(2) a department of state government;

(3) a state college or university; or

(4) an association of public employees, including an association of:

(A) employees of the United States government, if the majority of the members of the association reside in this state;

(B) state employees; or

(C) any combination of state, county, and municipal employees.

(d) The governmental entity or association is the policyholder under a policy to which this section applies.

(e) A policy to which this section applies is subject to Subchapter G.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.055. Spouses and Children of Employees of United States Government.

(a) A group term life insurance policy may be extended, in the form of group term life insurance only, to insure the spouse and natural or adopted minor children of an insured employee of the United States government if:

(1) the policy constitutes a part of the employee benefit program established for the benefit of employees of the United States government; and

(2) the spouse or children of other employees covered by the same employee benefit program in other states are or may be covered by group term life insurance.

(b) A policy to which this section applies is subject to Subchapter H.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.056. Principals.

(a) In this section, "agent" includes a general agent, subagent, or salesperson.

(b) A group life insurance policy may be issued to a principal, or if the principal is a life, life and accident, or life, accident, and health insurer, by or to the principal, to insure the principal's agents for the benefit of persons other than the principal.

(c) A policy to which this section applies is subject to Subchapter I.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.057. Creditors.

(a) A group life insurance policy may be issued to a creditor to insure the creditor's debtors.

(b) The creditor is the policyholder under a policy to which this section applies.

(c) A policy to which this section applies is subject to Subchapter J.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.058. Veterans' Land Board.

(a) A group life insurance policy may be issued to the Veterans' Land Board to insure persons purchasing land under the Veterans' Land Program as provided by Subchapter I, Chapter 161, Natural Resources Code.

(b) The Veterans' Land Board is the policyholder under a policy to which this section applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.059. Associations or Trusts for Payment of Funeral Expenses.

A group life insurance policy may be issued to an association or trust for a group of individuals for the payment of future funeral expenses.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.060. Nonprofit Organizations or Associations.

(a) A group life insurance policy may be issued to a nonprofit service, civic, fraternal, or community organization or association to insure the organization's or association's members and employees for the benefit of persons other than the organization or association or an officer of the organization or association.

(b) To be eligible to obtain a group life insurance policy under this section, an organization or association must:

(1) have a constitution or bylaws;

(2) have actively existed for at least two years; and

(3) have been formed for purposes other than that of obtaining insurance.

(c) The organization or association is the policyholder under a policy to which this section applies.

(d) A policy to which this section applies is subject to Subchapter K.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Secs. 1131.061 to 1131.063. [Reserved for expansion].

Sec. 1131.064. Other Groups.

(a) A group life insurance policy may be issued to cover a group other than a group described by Sections 1131.051—1131.060 if the commissioner finds that:

(1) the issuance of the policy is not contrary to the best interest of the public;

(2) the issuance of the policy would result in economies of acquisition or administration; and

(3) the benefits are reasonable in relation to the premiums charged.

(b) Group life insurance coverage may not be offered under this section in this state by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those prescribed by Subsections (a)(1)—(3) has determined that those requirements have been met.

(c) A policy to which this section applies is subject to Subchapter O.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.065. Wholesale, Franchise, or Employee Life Insurance.

(a) Policies of wholesale, franchise, or employee life insurance may be issued to:

(1) the employees of a common employer or employers;

(2) the members of one or more labor unions; or

(3) the members of one or more credit unions.

(b) A policy to which this section applies is subject to Subchapter P.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER C
GROUP LIFE INSURANCE: REQUIRED PROVISIONS

Sec. 1131.101. Required Provisions.

(a) A group life insurance policy may not be delivered in this state unless the policy contains in substance the provisions prescribed by this subchapter or provisions in relation to provisions prescribed by this subchapter that, in the opinion of the commissioner, are:

(1) more favorable to an insured under the policy; or

(2) at least as favorable to an insured under the policy and more favorable to the policyholder.

(b) The standard provisions required for individual life insurance policies do not apply to group life insurance policies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.102. Nonforfeiture.

(a) A group life insurance policy other than a group term life insurance policy must contain nonforfeiture provisions that, in the commissioner's opinion, are equitable to the insured and the policyholder.

(b) This section does not require that a group life insurance policy contain the same nonforfeiture provisions as required for an individual life insurance policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.103. Grace Period.

(a) A group life insurance policy must provide that the policyholder or premium payor is entitled to a grace period of 31 days for the payment of any premium, other than the first, due under the policy. During the grace period, the death benefit coverage continues in force unless the policyholder or premium payor gives the insurer written notice of discontinuance before the date of discontinuance and in accordance with the policy.

(b) The policy may provide that the policyholder or premium payor is liable to the insurer for payment of a pro rata premium for the time the policy was in force during a grace period.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.104. Incontestability of Policy.

A group life insurance policy must provide that:

(1) the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two years after its date of issue; and

(2) a statement made by any insured under the policy relating to the insured's insurability may not be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force before the contest for a period of two years from its date of issue during the insured's lifetime and unless the statement is contained in a written instrument signed by the insured making the statement.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.105. Application for Policy; Statements of Insured.

A group life insurance policy must provide that:

(1) a copy of any application for the policy by the policyholder must be attached to the policy when issued;

(2) a statement made by the policyholder or an insured is considered a representation and not a warranty; and

(3) a statement made by an insured may not be used in any contest under the policy unless a copy of the instrument containing the statement is or has been furnished to the person or the person's beneficiary.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.106. Evidence of Insurability.

A group life insurance policy must state the conditions, if any, under which the insurer reserves the right to require an individual eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition of obtaining part or all of the coverage.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.107. Adjustment of Premiums or Benefits If Age of Insured Is Misstated.

(a) A group life insurance policy must specify an equitable adjustment of premiums, benefits, or both, to be made if the age of an insured has been misstated.

(b) The provision required by Subsection (a) must contain a clear statement of the method of adjustment to be used.

(c) This section does not apply to a policy to which Section 1131.703 applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.108. Insurance Certificate.

(a) A group life insurance policy must provide that the insurer will issue to the policyholder for delivery to each insured an individual certificate stating:

(1) the insurance protection to which the insured is entitled;

(2) to whom the insurance benefits are payable; and

(3) the rights and conditions specified by Sections 1131.110—1131.112.

By agreement between the insurer and the policyholder, the certificate of insurance may be delivered electronically.

(b) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1075 (H.B. 1799), § 1, effective September 1, 2003.)

Sec. 1131.109. Person to Whom Benefits Are Payable.

(a) A group life insurance policy must provide that any amount due because of an insured's death must be paid to the beneficiary designated by the insured or the beneficiary's assignee, subject to:

(1) the provisions of the policy, if the designated beneficiary as to all or any part of the amount is not living at the time the insured dies; and

(2) any right reserved by the insurer in the policy and stated in the certificate to pay at the insurer's option a portion of the amount not to exceed $250 to any person the insurer determines is equitably entitled to the portion because of having incurred funeral or other expenses incident to the last illness or death of the insured.

(b) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.110. Right to Individual Policy on Termination of Employment or Membership.

(a) A group life insurance policy must provide that if any portion of the insurance on an individual insured under the policy ceases because the individual's employment or membership in the class or classes eligible for coverage under the policy terminates, the individual is entitled to have the insurer issue to the individual an individual life insurance policy without disability or other supplementary benefits.

(b) An individual must apply for an individual policy and pay the first premium to the insurer not later than the 31st day after the date the individual's employment or membership terminates.

(c) An individual policy under this section must be issued without evidence of insurability.

(d) The insured may select any individual policy, other than a term life insurance policy, customarily issued by the insurer for an individual of the insured's age and for the amount requested.

(e) Except as provided by Subsection (f), the individual policy must be in an amount not to exceed the amount of life insurance that ceases because of the termination of employment or membership.

(f) For purposes of Subsection (e), any amount of insurance that, on or before the date of the termination of employment or membership, has matured as an endowment payable to the insured is not included in the amount that is considered to cease because of the termination. This subsection applies without regard to whether the endowment is payable in full, in installments, or in the form of an annuity.

(g) The premium on an individual policy must be at the insurer's then customary rate applicable to:

(1) the form and amount of the individual policy;

(2) the class of risk to which the insured then belongs; and

(3) the insured's age on the effective date of the individual policy.

(h) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.111. Right to Individual Policy on Termination of Coverage Under Group Policy.

(a) A group life insurance policy must provide that if the policy terminates or is amended so as to terminate the insurance of a class of insured individuals, each individual insured under the policy on the date of the termination or amendment whose insurance terminates and who has been insured under the policy for at least five years before the date of the termination or amendment is entitled to have the insurer issue to the individual an individual life insurance policy, subject to the conditions and limitations provided by Section 1131.110.

(b) Notwithstanding Section 1131.110(e), a group life insurance policy may provide that the amount of an individual policy issued under this section may not exceed the lesser of:

(1) the amount of the individual's life insurance coverage that ceases because of the termination or amendment of the group policy, less the amount of any life insurance for which the individual is or becomes eligible under any group policy issued or reinstated by the same or another insurer not later than the 31st day after the date of the termination or amendment; or

(2) $2,000.

(c) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.112. Payment of Benefits on Death of Insured Before Individual Policy Becomes Effective.

(a) A group life insurance policy must provide that if an individual insured under the group policy dies during the period within which the individual would have been entitled to have an individual policy issued as provided by Section 1131.110 or 1131.111 and before such an individual policy takes effect, the amount of life insurance that the individual would have been entitled to have issued to the individual under the individual policy is payable as a claim under the group policy.

(b) This section applies without regard to whether:

(1) the application for the individual policy has been made; or

(2) the first premium for the individual policy has been paid.

(c) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER D
GROUP LIFE INSURANCE: OPTIONAL PROVISIONS

Sec. 1131.151. Continuation of Benefits for Family Members After Death of Insured.

(a) A group life insurance policy that provides for the insurer to pay benefits for members of the family or dependents of an individual in the insured group may provide for a continuation of any part of those benefits after the death of the individual in the insured group.

(b) Any amounts of insurance provided by benefits under Subsection (a) are not considered to be life insurance for the purpose of determining the maximum amount of term insurance that may be issued on any one life.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER E
GROUP LIFE INSURANCE POLICIES ISSUED TO EMPLOYERS: ADDITIONAL REQUIREMENTS

Sec. 1131.201. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.051.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.202. Eligible Employees.

All employees of the employer, or all of any class or classes of employees determined by conditions relating to their employment, are eligible for insurance under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.203. Payment of Premiums.

The policyholder must pay the premium for the policy:

(1) wholly from the employer's fund or funds contributed by the employer;

(2) partly from funds described by Subdivision (1) and partly from funds contributed by the insured employees; or

(3) wholly from funds contributed by the insured employees.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1073 (H.B. 1571), § 1, effective June 18, 2005; am. Acts 2005, 79th Leg., ch. 1073 (H.B. 1571), § 2, effective June 18, 2005.)

Sec. 1131.204. Minimum Enrollment.

(a) The policy must cover at least two employees on the date the policy is issued.

(b) [Repealed by Acts 2005, 79th Leg., ch. 1073 (H.B. 1571), § 2, effective June 18, 2005.]

(c) A policy as to which the insured employees do not pay any part of the premium must insure:

(1) all eligible employees; or

(2) all eligible employees except any employees as to whom evidence of individual insurability is not satisfactory to the insurer.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 2 (S.B. 88), § 1, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1073 (H.B. 1571), § 2, effective June 18, 2005.)

Sec. 1131.205. Amounts of Insurance.

(a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the employees or by the employer or trustees.

(b) to (d) [Repealed by Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(1), effective June 17, 2005.]

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(1), effective June 17, 2005.)

SUBCHAPTER F

GROUP LIFE INSURANCE POLICIES ISSUED TO FUNDS ESTABLISHED BY EMPLOYERS OR LABOR UNIONS: ADDITIONAL REQUIREMENTS

Sec. 1131.251. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.053.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.252. Eligible Employees or Members.

(a) The individuals eligible for insurance under the policy are:

(1) all employees of the employers and the employees of the trade association of those employers;

(2) all members of the labor union; or

(3) all of any class or classes of employees or members determined by conditions relating to their employment, to their membership in the unions, or both.

(b) A director of a corporate employer is not eligible for insurance under the policy unless the person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director.

(c) An individual proprietor or partner is not eligible for insurance under the policy unless the person is actively engaged in and devotes a substantial part of the person's time to conducting the business of the proprietorship or partnership.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.253. Payment of Premiums.

(a) Subject to Subsection (b), the policyholder must pay the premium for the policy:

(1) wholly from funds contributed by the employer or employers, the labor union or unions, or both; or

(2) partly from funds described by Subdivision (1) and partly from funds contributed by the insureds.

(b) An insured's contribution toward the cost of the insurance may not exceed 40 cents per month for each $1,000 of insurance coverage.

(c) The policy may provide that a participating employer or labor union may pay the premium directly to the insurer for the policy issued to the trustee. If payment is made as provided by this subsection, the employer or labor union is the premium payor for the insured employees or union members for that employer unit.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.254. Minimum Enrollment.

(a) The policy must cover at least 100 individuals on the date the policy is issued unless the policy is issued to the trustees of a fund established by:

(1) employers that have assumed obligations through a collective bargaining agreement and are participating in the fund to:

(A) comply with those obligations with regard to one or more classes of their employees

who are covered by the collective bargaining agreement; or

(B) provide insurance benefits for other classes of their employees; or

(2) one or more labor unions.

(b) A policy as to which the insureds are to pay part of the premium from funds contributed specifically for their insurance may take effect only if at least 75 percent of the individuals of each participating employer unit who are eligible on the date the policy takes effect, excluding any individuals as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions.

(c) A policy as to which the insureds do not pay any part of the premium must insure:

(1) all eligible individuals; or

(2) all eligible individuals except any individuals as to whom evidence of individual insurability is not satisfactory to the insurer.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.255. Amounts of Insurance.

(a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insureds or by the policyholder or employer.

(b) to (d) [Repealed by Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(2), effective June 17, 2005.]

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2, effective June 17, 2005.)

STATUTORY NOTES

Applicability. — Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 3 provides: "The changes in law made by this Act apply only to a group life insurance policy or certificate that is delivered, issued for delivery, or renewed on or after the effective date of this Act. A group life insurance policy or certificate that is delivered, issued for delivery, or renewed before the effective date of this Act is covered by the law in effect at the time the policy or certificate was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose."

SUBCHAPTER G GROUP LIFE INSURANCE POLICIES ISSUED TO GOVERNMENTAL ENTITIES OR ASSOCIATIONS OF PUBLIC EMPLOYEES: ADDITIONAL REQUIREMENTS

Sec. 1131.301. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.054.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.302. Eligible Employees or Members.

All employees of the employer or all members of the association are eligible for insurance under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.303. Payment of Premiums.

(a) The premium for the policy may be paid wholly or partly from funds contributed by:

(1) the employer;

(2) the individuals insured under the policy; or

(3) the insured employees who are members of the association of employees.

(b) Any money or credits received by or allowed to the policyholder under any participation agreement contained in or issued in connection with the policy must be applied to the payment of future premiums and to the pro rata abatement of the insured employees' contribution for future premiums.

(c) The employer may deduct from an employee's salary the employee's contribution for the premiums if authorized to do so in writing by that employee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.304. Minimum Enrollment.

(a) The policy must cover at least 10 employees or members on the date the policy is issued.

(b) A policy as to which the insured employees or members pay part of the premium may take effect only if at least 75 percent of the employees or members eligible on the date the policy takes effect, excluding any employees or members as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.

(c) A group policy issued before September 1, 1969, to a group described by Section 1131.054 that was in existence on that date continues in force without regard to whether the number of the employees or members insured under the policy was less than 75 percent of the employees or members eligible on that date.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER H GROUP TERM LIFE INSURANCE POLICIES EXTENDED TO SPOUSES AND CHILDREN OF EMPLOYEES OF UNITED STATES: ADDITIONAL REQUIREMENTS

Sec. 1131.351. Applicability of Subchapter.

This subchapter applies only to a group term life insurance policy extended to a group described by Section 1131.055.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.352. Payment of Premiums.

The policyholder must pay the premium for the group term life insurance solely from funds contributed by the insured employees.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.353. Amounts of Insurance.

(a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insured employees or by the policyholder.

(b) Group term life insurance on the life of an employee's spouse may not exceed the lesser of:

(1) $10,000; or

(2) one-half of the amount of insurance on the life of the insured employee under the group policy.

(c) Group term life insurance on the life of an employee's minor child may not exceed $2,000.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.354. Conversion Rights.

On termination of group term life insurance coverage for a spouse insured under this subchapter because the insured employee's employment terminates or the employee dies, or because the group contract terminates, the spouse has the same conversion rights as to the group term life insurance on the spouse's life as the employee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.355. Certificate of Insurance.

Only one certificate of insurance issued for delivery to an insured employee is required if the certificate includes a statement concerning any dependent's coverage.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER I GROUP LIFE INSURANCE POLICIES ISSUED TO PRINCIPALS: ADDITIONAL REQUIREMENTS

Sec. 1131.401. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.056.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.402. Eligible Agents.

Agents who are under contract to provide personal services for the principal for a commission or other fixed or ascertainable compensation, or any class or classes of those agents determined by conditions relating to the services the agents provide to the principal, are eligible for insurance under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.403. Payment of Premiums.

The premium for the policy must be paid:

(1) wholly by the principal; or

(2) partly from funds contributed by the principal and partly from funds contributed by the insured agents.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.404. Minimum Enrollment.

(a) The policy must cover at least 10 agents on the date the policy is issued.

(b) Subject to Subsection (c), a policy as to which the insured agents pay part of the premium must cover, on the date the policy is issued, at least:

(1) 75 percent of the eligible agents; or

(2) 75 percent of any class or classes of eligible agents, determined by conditions relating to the services the agents provide to the principal.

(c) Benefits may be extended to another class of agents if 75 percent of the class request coverage.

(d) A policy as to which the insured agents do not pay any part of the premium must insure:

(1) all eligible agents; or

(2) all of any class or classes of eligible agents determined by conditions relating to the services the agents provide to the principal.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.405. Amounts of Insurance.

(a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the agents or by the principal.

(b) [Repealed by Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(3), effective June 17, 2005.]

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(3), effective June 17, 2005.)

SUBCHAPTER J
GROUP LIFE INSURANCE POLICIES ISSUED TO CREDITORS: ADDITIONAL REQUIREMENTS

Sec. 1131.451. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.057.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.452. Eligible Debtors.

All individuals who become borrowers, or purchasers of securities, merchandise, or other property, under an agreement to pay the borrowed amount or to pay the balance of the price of the securities, merchandise, or other property purchased, are eligible for insurance under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.453. Payment of Premiums.

The policyholder must pay the premium for the policy from:

(1) the creditor's funds;

(2) charges collected from the insured debtors; or

(3) both the creditor's funds and charges collected from the insured debtors.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.454. Minimum Enrollment.

The policy must cover at least 50 debtors at all times.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.455. Amount of Insurance.

(a) Except as otherwise provided by this section, the amount of insurance on a debtor's life under the policy may not exceed the amount of the debtor's indebtedness.

(b) Subject to Subsections (c) and (d), the face amount of any loan or loan commitment, totally or partially executed, made to a debtor for educational purposes or to a debtor with seasonal income by a creditor in good faith for general agricultural or horticultural purposes, secured or unsecured, under which the debtor becomes personally liable for the payment of the loan, may be insured in an initial amount of insurance not to exceed the total amount payable under the contract of indebtedness.

(c) If indebtedness described by Subsection (b) is payable in substantially equal installments, the amount of insurance may not at any time exceed the greater of the scheduled or actual amount of unpaid indebtedness.

(d) Insurance on a loan commitment described by Subsection (b) that does not exceed one year in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 1, effective June 17, 2005.)

Sec. 1131.456. Payment of Proceeds.

(a) The proceeds of the insurance must be payable to the policyholder.

(b) Payment to the policyholder reduces or extinguishes the debtor's unpaid indebtedness to the extent of the payment. In the case of a debtor under a loan or loan commitment described by Section 1131.455(b), any insurance proceeds in excess of the indebtedness to the creditor are payable:

(1) to the debtor's estate; or

(2) under a facility of payment clause.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.457. Annuities and Endowment Insurance Prohibited.

The insurance issued may not include annuities or endowment insurance.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER K
GROUP LIFE INSURANCE POLICIES ISSUED TO NONPROFIT ORGANIZATIONS OR ASSOCIATIONS: ADDITIONAL REQUIREMENTS

Sec. 1131.501. pplicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.060.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.502. Eligible Members.

All members of the organization or association, or all of any class of members determined by conditions relating to their membership in the organization or association, are eligible for insurance under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.503. Payment of Premiums.

(a) The policyholder must pay the premium from:

(1) the policyholder's funds;

(2) funds contributed by the employees or members specifically for their insurance; or

(3) both the policyholder's funds and funds contributed by the employees or members.

(b) The policy may provide that the premium may be paid directly to the insurer by individual employees or members from their own funds. If the premium is paid as provided by this subsection, the respective employees or members become the premium payor for that particular certificate.

(c) For purposes of Sections 222.002, 257.001, and 281.004, only the final retrospectively determined premium amount remitted to the issuer by the group policyholder is taxable as gross premiums, without regard to whether membership contributions, fees, assessments, dues, revenues, or other considerations in excess of that final amount are also collected from members. This subsection applies only to a nonprofit membership association that:

(1) qualifies under Section 501(c)(9), Internal Revenue Code of 1986;

(2) has been in existence for at least 50 years;

(3) limits association membership to:

(A) members of the uniformed services of the United States serving on active duty;

(B) members of the ready reserve forces of the United States, including the Army and Air National Guard;

(C) retirees and separatees of:

(i) the uniformed services of the United States; or

(ii) the ready reserve forces of the United States, including the Army and Air National Guard;

(D) cadets and midshipmen in the service academies of the United States and other officer candidates;

(E) federal employees and contractors who are employed by the United States government or other related governmental entities or retired with pay from that employment;

(F) employees or members of any state, county, municipal, or other local governmental body or other organized governmental entity who are involved in homeland defense and homeland security operations; and

(G) any other category of membership established by the governing body of the association that falls within the scope of permissible membership authorized by Section 501(c)(9), Internal Revenue Code of 1986;

(4) has no separate membership enrollment or application requirement;

(5) collects member contributions, fees, or dues, including funds contributed specifically for insurance and remitted by the group policyholder to the issuer following a retrospective premium determination; and

(6) provides insurance and noninsurance membership benefits.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 1252 (H.B. 2718), § 1, effective June 15, 2007.)

Sec. 1131.504. Minimum Enrollment.

The policy must cover at least 25 individuals on the date the policy is issued.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.505. Amounts of Insurance.

The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insured members or by the organization or association.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER O GROUP LIFE INSURANCE POLICIES ISSUED TO OTHER GROUPS: ADDITIONAL REQUIREMENTS

Sec. 1131.701. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.064.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.702. Payment of Premiums.

The premium for the policy must be paid from:

(1) the policyholder's funds;

(2) funds contributed by the insureds; or

(3) both the policyholder's funds and funds contributed by the insureds.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.703. Insurance for Liabilities Related to Fringe Benefits.

(a) Notwithstanding any other law, an employer may insure the lives of the employer's officers, directors, employees, and retired employees under Section 1131.064 to and in an amount necessary to provide funds to offset liabilities related to fringe benefits.

(b) An employer shall submit evidence of the purpose of the policy to the commissioner.

(c) A policy issued for the purpose described by this section does not reduce any other life insurance benefits offered or provided by the employer.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER P WHOLESALE, FRANCHISE, OR EMPLOYEE LIFE INSURANCE POLICIES: ADDITIONAL REQUIREMENTS

Sec. 1131.751. Applicability of Subchapter.

This subchapter applies only to a wholesale, franchise, or employee life insurance policy issued as provided by Section 1131.065.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.752. Payment of Premiums.

(a) The premium for the policy must be paid:

(1) wholly from funds contributed by the employer or employers of the insureds;

(2) wholly from funds contributed by the labor or credit union or unions; or

(3) partly from funds described by Subdivision (1) or (2) and partly from funds contributed by the insureds.

(b) An insured's contribution toward the cost of the insurance may not exceed 40 cents per month for each $1,000 of insurance coverage.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.753. Minimum Enrollment.

A policy of wholesale, franchise, or employee life insurance must cover at least five employees or members of a labor union or credit union on the date the policy is issued.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.754. Amount of Insurance [Repealed].

Repealed by Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(4), effective June 17, 2005.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.755. Individual Application Required.

(a) An insurer must take an individual application for each policy of wholesale, franchise, or employee life insurance.

(b) [Repealed by Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(5), effective June 17, 2005.]

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 496 (H.B. 526), § 2(5), effective June 17, 2005.)

Sec. 1131.756. Right to Individual Policy on Termination of Employment or Membership.

(a) A policy of wholesale, franchise, or employee life insurance must contain in substance the provisions prescribed by this section.

(b) The policy must provide that, subject to Subsections (c) and (d), if the insurance on an individual insured under the policy ceases because the individual's employment or membership in the labor or credit union terminates, the individual is entitled to have the insurer issue to the individual an individual life insurance policy without disability or other supplementary benefits.

(c) An individual policy under this section must be issued without evidence of insurability.

(d) An individual must apply for an individual policy and pay the first premium to the insurer not later than the 31st day after the date the individual's employment or membership terminates.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.757. Optional Policy Provisions.

A policy of wholesale, franchise, or employee life insurance may contain in substance provisions under which:

(1) the policy is renewable at the option of the insurer only;

(2) coverage by the insurer terminates on termination of employment or membership by the insured employee or member; or

(3) an individual eligible for insurance must furnish evidence of individual insurability satisfactory to the insurer as a condition to coverage.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.758. Certain Policies and Plans Unaffected.

This subchapter does not impair or otherwise affect:

(1) a policy issued before August 28, 1961;

(2) a plan of wholesale, franchise, or employee life insurance in effect before August 28, 1961, if the plan was legal on the date policies were issued under the plan; or

(3) a policy issued on a salary savings franchise plan, bank deduction plan, pre-authorized check plan, or similar plan of premium collection.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER Q
EXTENSION OF GROUP LIFE INSURANCE TO SPOUSES AND CHILDREN

Sec. 1131.801. Applicability of Subchapter.

This subchapter applies to any group life insurance policy issued and delivered under the laws of this state other than a policy issued and delivered to a creditor as provided by Section 1131.057 or other law providing for credit life insurance.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.802. Extension of Group Life Insurance to Spouses and Children; Eligible Children.

Insurance under a group life insurance policy may be extended to cover:

(1) the spouse of each individual eligible to be insured under the policy;

(2) a natural or adopted child of each individual eligible to be insured under the policy if the child is:

(A) younger than 25 years of age or an older age stated in the policy; or

(B) physically or mentally disabled and under the parents' supervision; or

(3) a natural or adopted grandchild of each individual eligible to be insured under the policy if the child is younger than 25 years of age or an older age stated in the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 1243 (H.B. 2549), § 1, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1000 (H.B. 2172), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1000 (H.B. 2172), § 2 provides: "The change in law made by this Act applies only to an insurance policy that is delivered, issued for delivery, renewed, or amended on or after January 1, 2012. A policy that is delivered, issued for delivery, renewed, or amended before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act [September 1, 2011], and that law is continued in effect for that purpose."

Sec. 1131.803. Payment of Premiums.

The premium for group life insurance extended to cover a spouse or child may be paid by:

(1) the group policyholder;

(2) the insured under the policy; or

(3) the group policyholder and the insured jointly.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.804. Amounts of Insurance.

(a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insured or the policyholder.

(b) The amount of insurance on the life of the spouse or a child may not exceed the amount of insurance for which the insured is eligible under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.805. Conversion Rights.

On termination of group life insurance coverage for a spouse insured under this subchapter because

the insured's employment terminates, the insured's eligibility for insurance terminates, or the insured dies, or because the group life insurance policy terminates, the spouse has the same conversion rights as to the group life insurance on the spouse's life as the insured.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.806. Certificate of Insurance.

Only one certificate of insurance issued for delivery to an insured is required if the certificate includes a statement concerning any spouse's or child's coverage.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

SUBCHAPTER R CONTINUATION OF CERTAIN GROUP LIFE INSURANCE DURING LABOR DISPUTE

Sec. 1131.851. Applicability of Subchapter.

This subchapter applies only to a group life insurance policy that is delivered or issued for delivery in this state and as to which any part of the premium is paid or is to be paid by an employer under the terms of a collective bargaining agreement.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.852. Continuation of Group Life Insurance During Labor Dispute Required for Certain Policies.

An insurer may not deliver or issue for delivery a policy subject to this subchapter unless the policy provides that if the employees covered by the policy stop work because of a labor dispute, coverage continues under the policy, on timely payment of the premium, for each employee who:

(1) is covered under the policy on the date the work stoppage begins;

(2) continues to pay the employee's individual contribution, subject to the conditions provided by this subchapter; and

(3) assumes and pays during the work stoppage the contribution due from the employer, subject to the conditions provided by this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.853. Contributions If Policyholder Is Trustee.

(a) An employee's contribution for purposes of a policy as to which the policyholder is a trustee or the trustees of a fund established or maintained wholly or partly by the employer is the amount the employee and employer would have been required to contribute to the fund for the employee if:

(1) the work stoppage had not occurred; and

(2) the agreement requiring the employer to make contributions to the fund were in effect.

(b) The policy may provide that continuation of coverage is contingent on the collection of individual contributions by the policyholder or the policyholder's agent.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.854. Contributions If Policyholder Is Not Trustee.

(a) A policy as to which the policyholder is not a trustee or the trustees of a fund established or maintained in whole or in part by the employer must provide that the employee's individual contribution:

(1) is the policy rate applicable:

(A) on the date the work stoppage begins; and

(B) to an individual in the class to which the employee belongs as provided by the policy; or

(2) if the policy does not provide for a rate applicable to an individual, is an amount equal to the amount determined by dividing:

(A) the total monthly premium in effect under the policy on the date the work stoppage begins; by

(B) the total number of insureds under the policy on that date.

(b) The policy may provide that continuation of coverage under this subchapter is contingent on the collection of individual contributions by the union or unions representing the employees.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.855. Payment of Contribution and Premium.

A policy may provide that continuation of coverage for an employee under the policy is contingent on timely payment of:

(1) contributions by the employee; and

(2) the premium by the entity responsible for collecting the individual employee contributions.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.856. Past Due Premium.

(a) A policy may provide that the continuation of coverage is contingent on payment of any premium that:

(1) is unpaid on the date the work stoppage begins; and

(2) became due before the date the work stoppage begins.

(b) A premium described by Subsection (a) must be paid before the date the next premium becomes due under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.857. Individual Premium Rate Increase.

(a) A policy may provide that, during the period of a work stoppage, an individual premium rate may be increased by an amount not to exceed 20 percent of the amount shown in the policy, or a greater percentage as approved by the commissioner, to provide sufficient compensation to the insurer to cover increased:

(1) administrative costs; and

(2) mortality and morbidity.

(b) If a policy provides for a premium rate increase in accordance with this section, the amount of an employee's contribution must be increased by the same percentage.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.858. Premium Rate Change Not Limited.

(a) This subchapter does not limit any right of the insurer under a policy to increase or decrease a premium rate before, during, or after a work stoppage if the insurer would be entitled to increase the premium rate had a work stoppage not occurred.

(b) A change in a premium rate made in accordance with this section takes effect on a date that is determined by the insurer in accordance with the terms of the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.859. Limitations on Continuation of Coverage.

This subchapter does not require the continuation of coverage under a policy for a period:

(1) longer than six months after a work stoppage occurs;

(2) beyond the time that 75 percent of the covered employees continue the coverage; or

(3) as to an individual covered employee, beyond the time that the employee takes a full-time job with another employer.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

Sec. 1131.860. Other Provisions; Commissioner Approval Required.

A policy may contain any other provision relating to continuation of policy coverage during a work stoppage that the commissioner approves.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 2, effective June 1, 2003.)

TITLE 8
HEALTH INSURANCE AND OTHER HEALTH COVERAGES

SUBTITLE H
HEALTH BENEFITS AND OTHER COVERAGES FOR GOVERNMENTAL EMPLOYEES

CHAPTER 1575
TEXAS PUBLIC SCHOOL EMPLOYEES GROUP BENEFITS PROGRAM

Subchapter A. General Provisions

Subchapter B. Administration

Subchapter C. Provision of Benefits

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1575.001. Short Title.

This chapter may be cited as the Texas Public School Retired Employees Group Benefits Act.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.413(a), effective September 1, 2003.)

Sec. 1575.002. General Definitions.

In this chapter:

(1) "Active employee" means a contributing member of the Teacher Retirement System of Texas who:

(A) is employed by a public school; and

(B) is not entitled to coverage under a plan provided under Chapter 1551 or 1601.

(2) "Carrier" means an insurance company or hospital service corporation authorized by the department under this code or another insurance law of this state to provide any of the insurance coverages, benefits, or services provided by this chapter.

(3) "Fund" means the retired school employees group insurance fund.

(4) "Group program" means the Texas Public School Employees Group Insurance Program authorized by this chapter.

(5) "Health benefit plan" means a group insurance policy, contract, or certificate, medical or hospital service agreement, membership or subscription contract, salary continuation plan, or similar group arrangement to provide health care services or to pay or reimburse expenses of health care services.

(6) "Public school" means:

(A) a school district;

(B) another educational district whose employees are members of the Teacher Retirement System of Texas;

(C) a regional education service center established under Chapter 8, Education Code; or

(D) an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code.

(7) "Trustee" means the Teacher Retirement System of Texas.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 47, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 366 (S.B. 1370), § 3.01, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 1, effective September 1, 2004; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.414(a), effective September 1, 2003.)

Sec. 1575.003. Definition of Dependent and Related Terms.

(1) "Dependent" means:

(A) the spouse of a retiree;

(B) a child of a retiree or deceased active member if the child is younger than 26 years of age, including:

(i) an adopted child or child who is lawfully placed for legal adoption;

(ii) a foster child, stepchild, or other child who is in a regular parent-child relationship; or

(iii) a natural child;

(C) a retiree's natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or has his or her care provided by the retiree or surviving spouse on a regular basis regardless of the child's age, if the child has a mental disability or is physically incapacitated to an extent that the child is dependent on the retiree or surviving spouse for care or support, as determined by the trustee; or

(D) a deceased active member's natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship, without regard to the age of the child, if, while the active member was alive, the child:

(i) lived with or had the child's care provided by the active member on a regular basis; and

(ii) had a mental disability or was physically incapacitated to an extent that the child was dependent on the active member or surviving spouse for care or support, as determined by the trustee.

(2) "Surviving dependent child" means:

(A) the dependent child of a deceased retiree who has survived the deceased retiree and the deceased retiree's spouse; or

(B) the dependent child of a deceased active member who has survived the deceased member and the deceased member's spouse if the deceased member:

(i) had contributions made to the group program at the last place of employment of the deceased member in public education in this state;

(ii) had 10 or more years of service credit in the Teacher Retirement System of Texas; and

(iii) died on or after September 1, 1986.

(3) "Surviving spouse" means:

(A) the surviving spouse of a deceased retiree; or

(B) the surviving spouse of a deceased active member:

(i) for whom contributions have been made to the group program at the last place of

employment of the deceased member in public education in this state;

(ii) who had 10 or more years of service credit in the Teacher Retirement System of Texas; and

(iii) who died on or after September 1, 1986.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.414(b), (c), effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 21, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 18, effective June 14, 2013.)

Sec. 1575.004. Definition of Retiree.

(a) In this chapter, "retiree" means:

(1) an individual not eligible for coverage under a plan provided under Chapter 1551 or 1601 who:

(A) has taken a service retirement under the Teacher Retirement System of Texas after September 1, 2005, with at least 10 years of service credit in the system, which may include up to five years of military service credit, but which may not include any other service credit purchased for equivalent or special service credit, and either:

(i) the sum of the retiree's age and years of service credit in the retirement system equals or exceeds 80 at the time of retirement, regardless of whether the retiree had a reduction in the retirement annuity for early age; or

(ii) the retiree has 30 or more years of service credit in the retirement system at the time of retirement;

(B) has taken a service retirement under the Teacher Retirement System of Texas after September 1, 2004, but on or before August 31, 2005, and on September 1, 2005, either:

(i) meets the requirements for eligibility for the group program for coverage as a retiree as those requirements existed on August 31, 2004;

(ii) meets the requirements of Paragraph (A); or

(iii) is enrolled in the group program and was enrolled in the group program on August 31, 2005; or

(C) has taken a service retirement under the Teacher Retirement System of Texas on or before August 31, 2004, and who is enrolled in the group program on August 31, 2005;

(2) an individual who:

(A) has taken a disability retirement under the Teacher Retirement System of Texas; and

(B) is entitled to receive monthly benefits from the Teacher Retirement System of Texas; or

(3) an individual who:

(A) has taken a disability retirement under the Teacher Retirement System of Texas;

(B) has at least 10 years of service credit in the Teacher Retirement System of Texas on the date of disability retirement, as determined under Section 824.304, Government Code; and

(C) is not entitled to receive monthly benefits from the Teacher Retirement System of Texas because those benefits have been suspended in accordance with Section 824.310, Government Code.

(b) In this section, "public school" has the meaning assigned by Section 821.001, Government Code.

(c) For purposes of this section, to meet the requirements for eligibility that existed on August 31, 2004, for a service retiree, an individual must not have been eligible to be covered by a plan provided under Chapter 1551 or 1601 and must have taken a service retirement under the Teacher Retirement System of Texas with either:

(1) at least 10 years of service credit in the retirement system for actual service in public schools in this state; or

(2) at least five years of service credit for actual service in the public schools in this state and five years of out-of-state service credit in the Teacher Retirement System of Texas.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 48, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 2, effective September 1, 2004; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.415, effective September 1, 2003; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 16.05, effective September 1, 2004; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 38, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 15, effective September 1, 2007.)

Sec. 1575.005. Issuance of Certificate of Coverage.

At the time and in the circumstances specified by the trustee, a carrier shall issue to each retiree, surviving spouse, or surviving dependent child covered under this chapter a certificate of coverage that:

(1) states the benefits to which the person is entitled;

(2) states to whom the benefits are payable;

(3) states to whom a claim must be submitted; and

(4) summarizes the provisions of the coverage principally affecting the person.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.416(a), effective September 1, 2003.)

Sec. 1575.006. Exemption from Process.

(a) The following are exempt from execution, attachment, garnishment, or any other process:

(1) benefit payments, including optional benefits payments, active employee and state contributions, and retiree, surviving spouse, and surviving dependent child contributions;

(2) any rights, benefits, or payments accruing to any person under this chapter; and

(3) any money in the fund.

(b) The items listed in Subsection (a) may not be assigned except for direct payment to benefit providers as authorized by the trustee by contract, rule, or otherwise.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.417, effective September 1, 2003.)

Sec. 1575.007. Exemption from State Taxes and Fees.

A premium or contribution on a policy, insurance contract, or agreement authorized by this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.008. Coverage Exempt from Insurance Law.

A coverage plan provided under this chapter is exempt from any other insurance law, including common law, that does not expressly apply to the plan or this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 39, effective September 1, 2005.)

SUBCHAPTER B ADMINISTRATION

Sec. 1575.051. Administration of Group Program.

The trustee shall take the actions it considers necessary to devise, implement, and administer the group program.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.419, effective September 1, 2003.)

Sec. 1575.052. Authority to Adopt Rules and Procedures; Other Authority.

(a) The trustee may adopt rules, plans, procedures, and orders reasonably necessary to implement this chapter, including:

(1) minimum benefit and financing standards for group coverage for retirees, dependents, surviving spouses, and surviving dependent children;

(2) basic and optional group coverage for retirees, dependents, surviving spouses, and surviving dependent children;

(3) procedures for contributions and deductions;

(4) periods for enrollment and selection of optional coverage and procedures for enrolling and exercising options under the group program;

(5) procedures for claims administration;

(6) procedures to administer the fund; and

(7) a timetable for:

(A) developing minimum benefit and financial standards for group coverage;

(B) establishing group plans; and

(C) taking bids and awarding contracts for group plans.

(b) The trustee may:

(1) study the operation of all group coverage provided under this chapter; and

(2) contract for advice and counsel in implementing and administering the group program with independent and experienced group insurance consultants and actuaries.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.420(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 40, effective September 1, 2005.)

Sec. 1575.053. Personnel.

(a) The trustee may employ persons to assist the trustee in implementing this chapter.

(b) The trustee shall prescribe the duties and compensation of each employee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.421, effective September 1, 2003.)

Sec. 1575.054. Budget.

Expenses incurred in developing and administering the group program shall be paid as provided by a budget adopted by the trustee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003,

78th Leg., ch. 1276 (H.B. 3507), § 10A.421, effective September 1, 2003.)

Sec. 1575.055. Department Assistance.

The department shall, as requested by the trustee, assist the trustee in implementing and administering this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.421, effective September 1, 2003.)

Sec. 1575.056. Transfer of Records Relating to Active Employee Program.

The trustee shall transfer from the program all records relating to active employees participating in the program established under Chapter 1579 not later than the date on which the program established under Chapter 1579 is implemented.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.422(a), effective September 1, 2003.)

SUBCHAPTER C
PROVISION OF BENEFITS

Sec. 1575.101. System As Group Plan Holder.

The Teacher Retirement System of Texas is the group plan holder of a plan established under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.423, effective September 1, 2003.)

Sec. 1575.102. Self-Insured Plans.

The trustee may self-insure any plan established under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.423, effective September 1, 2003.)

Sec. 1575.103. Plans May Vary According to Medicare Coverage.

For retirees and surviving spouses who are covered by Medicare, the trustee may provide one or more plans that are different from the plans provided for retirees and surviving spouses who are not covered by Medicare.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.423, effective September 1, 2003.)

Sec. 1575.104. Terms of Contract.

A contract for group coverage awarded by the trustee must meet the minimum benefit and financial standards adopted by the trustee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.423, effective September 1, 2003.)

Sec. 1575.105. Plan Coverage Secondary to Certain Other Coverage.

The coverage provided by a plan established under this chapter:

(1) is secondary to Medicare hospital and medical insurance to the extent permitted by federal law if the retiree, dependent, surviving spouse, or surviving dependent child is entitled to receive Medicare hospital insurance benefits without charge; and

(2) may be made secondary to other coverage to which the retiree, dependent, surviving spouse, or surviving dependent child is entitled.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.106. Competitive Bidding Requirements; Rule.

(a) A contract to provide group benefits under this chapter may be awarded only through competitive bidding under rules adopted by the trustee.

(b) The trustee shall submit for competitive bidding at least every six years each contract for coverage under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.424(a), effective September 1, 2003.)

Sec. 1575.107. Contract Award; Considerations.

(a) In awarding a contract to provide group benefits under this chapter, the trustee is not required to select the lowest bid and may consider any relevant criteria, including the bidder's:

(1) ability to service contracts;

(2) past experiences; and

(3) financial stability.

(b) If the trustee awards a contract to a bidder whose bid deviates from that advertised, the trustee shall record the deviation and fully justify the reason for the deviation in the minutes of the next meeting of the trustee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.424(b), effective September 1, 2003.)

Sec. 1575.108. Use of Private Entities.

The trustee may engage a private entity to collect contributions from or to settle claims in connection with a plan established by the trustee under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.425, effective September 1, 2003.)

Sec. 1575.109. Use of Health Care Provider.

To provide benefits to participants in the group program, the trustee may contract directly with a health care provider, including a health maintenance organization, a preferred provider organization, a carrier, an administrator, and any other qualified vendor.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.425, effective September 1, 2003.)

Sec. 1575.110. Pharmacy Benefit Manager Contracts.

(a) In awarding a contract to provide pharmacy benefit manager services under this chapter, the trustee is not required to select the lowest bid but must select a contract that meets the criteria established by this section.

(b) The contract must state that:

(1) the trustee is entitled to audit the pharmacy benefit manager to verify costs and discounts associated with drug claims, pharmacy benefit manager compliance with contract requirements, and services provided by subcontractors;

(2) the audit must be conducted by an independent auditor in accordance with established auditing standards; and

(3) to conduct the audit, the trustee and the independent auditor are entitled access to information related to the services and the costs associated with the services performed under the contract, including access to the pharmacy benefit manager's facilities, records, contracts, medical records, and agreements with subcontractors.

(c) The contract must define the information that the pharmacy benefit manager is required to provide to the trustee concerning the audit of the retail, independent, and mail order pharmacies performing services under the contract and describe how the results of these audits must be reported to the trustee, including how often the results must be reported. The contract must state whether the pharmacy benefit manager is required to return recovered overpayments to the trustee.

(d) The contract must state that any audit of a mail order pharmacy owned by the pharmacy benefit manager must be conducted by an independent auditor selected by the trustee in accordance with established auditing standards.

(Enacted by Acts 2009, 81st Leg., ch. 1207 (S.B. 704), § 6, effective September 1, 2009.)

SUBCHAPTER D
COVERAGES AND PARTICIPATION

Sec. 1575.151. Types of Coverages.

The trustee may include in a plan any coverage it considers advisable, including:

(1) life insurance;

(2) accidental death and dismemberment coverage;

(3) coverage for:

(A) hospital care and benefits;

(B) surgical care and treatment;

(C) medical care and treatment;

(D) dental care;

(E) eye care;

(F) obstetrical benefits;

(G) long-term care;

(H) prescribed drugs, medicines, and prosthetic devices; and

(I) supplemental benefits, supplies, and services in accordance with this chapter; and

(4) protection against loss of salary.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.425, effective September 1, 2003.)

Sec. 1575.152. Basic Plan Must Cover Preexisting Conditions.

A basic plan must cover preexisting conditions.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.153. Basic Coverage.

A retiree who applies for coverage during an enrollment period may not be denied coverage in a basic plan provided under this chapter unless the trustee finds under Subchapter K that the retiree defrauded or attempted to defraud the group program.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 49(a), effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 3(a), effective September 1, 2004; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.426(a), effective September 1, 2003.)

Sec. 1575.154. Enrollment in Basic Plan by Retirees Required [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 201, effective September 1, 2003; Acts 2003, 78th Leg., ch. 1231, effective September 1, 2004.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.427, effective September 1, 2003.)

Sec. 1575.155. Coverage for Dependents of Retiree.

(a) A retiree participating in the group program is entitled to secure for the retiree's dependents group coverage provided for the retiree under this chapter, as determined by the trustee.

(b) The additional contribution payments for the dependent coverage shall be deducted from the annuity payments to the retiree in the manner and form determined by the trustee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.427, effective September 1, 2003.)

Sec. 1575.156. Coverage for Surviving Spouse or Dependents of Surviving Spouse.

(a) A surviving spouse who is entitled to group coverage under this chapter may elect to retain or obtain coverage for the surviving spouse or dependents of the surviving spouse at the applicable rate for the deceased participant.

(b) A surviving spouse must provide payment of applicable contributions in the manner established by Section 1575.205 and by the trustee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.428, effective September 1, 2003.)

Sec. 1575.157. Coverage for Surviving Dependent Child.

(a) A surviving dependent child, the guardian of the child's estate, or the person having custody of the child may elect to retain or obtain group coverage for the surviving dependent child at the applicable rate for a dependent.

(b) The applicable contributions must be provided in the manner established by Section 1575.205 and by the trustee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.429, effective September 1, 2003.)

Sec. 1575.158. Optional Group Health Benefit Plan.

(a) **[2 Versions: Effective Until September 1, 2014]** The trustee may, in addition to providing a basic plan, contract for and make available an optional group health benefit plan for retirees, dependents, surviving spouses, or surviving dependent children.

(a) **[2 Versions: Effective September 1, 2014]** Subject to Section 1575.1581, the trustee may, in addition to providing a basic plan, contract for and make available an optional group health benefit plan for retirees, dependents, surviving spouses, or surviving dependent children.

(b) An optional group health benefit plan may provide for:

(1) a deductible in an amount that is less than the amount for the basic plan;

(2) coinsurance in an amount that is less than the amount for the basic plan; or

(3) additional benefits as permitted under Section 1575.151.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.430, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 9, effective September 1, 2014.)

Sec. 1575.1581. [Effective September 1, 2014] Limitation on Enrollment in Optional Group Health Benefit Plan.

(a) A service retiree and any dependent of a service retiree are not eligible to participate in an optional group health benefit plan made available under Section 1575.158, unless the retiree:

(1) is at least 62 years of age or older; and

(2) meets the definition of retiree under Section 1575.004(a)(1).

(b) A retiree subject to Subsection (a) may, on the date the retiree reaches 62 years of age, under rules adopted by the trustee:

(1) enroll in any coverage tier under the group program; and

(2) enroll, in the same coverage tier, the retiree's dependents who are enrolled in the group program as of the date the retiree reaches 62 years of age.

(Enacted by Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 10, effective September 1, 2014.)

Sec. 1575.159. Coverage for Prostate-Specific Antigen Test.

A health benefit plan offered under the group program must provide coverage for a medically accepted prostate-specific antigen test used for the

detection of prostate cancer for each male enrolled in the plan who:

(1) is at least 50 years of age; or

(2) is at least 40 years of age and:

(A) has a family history of prostate cancer; or

(B) exhibits another cancer risk factor.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.160. Group Life or Accidental Death and Dismemberment Insurance: Payment of Claim.

The amount of group life insurance or group accidental death and dismemberment insurance covering a retiree, dependent, surviving spouse, or surviving dependent child on the date of death shall be paid, on the establishment of a valid claim, only to:

(1) the beneficiary designated by the person in a signed and witnessed document received before death in the office of the trustee; or

(2) a person in the order prescribed by Section 824.103(b), Government Code, if a beneficiary is not properly designated or a beneficiary does not exist.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.431(a), effective September 1, 2003.)

Sec. 1575.161. Open Enrollment; Additional Enrollment Periods.

(a) A retiree eligible for coverage under the group program may select any coverage provided under this chapter for which the person is otherwise eligible:

(1) on any date that is on or after the date the person retires and on or before the 90th day after that date; and

(2) during any other open enrollment periods for retirees set by the trustee by rule.

(b) In addition to the enrollment periods authorized under Subsection (a), a retiree who:

(1) is enrolled in the group program as of August 31, 2004, and who is 65 years of age or older on that date may select coverage as described by Subsections (c) and (d) on September 1, 2004;

(2) is enrolled in the group program as of August 31, 2004, and who is 65 years of age after that date may select coverage as described by Subsections (c) and (d) on the date that the retiree is 65 years of age; or

(3) enrolls in the group program on or after September 1, 2004, and who is 65 years of age or older on or after that date may select coverage as described in Subsections (c) and (d) on the date that the retiree is 65 years of age.

(c) If a retiree described by Subsection (b) is not covered by the Medicare program, the retiree may enroll in the next-higher coverage tier under the group program and may add dependent coverage in that same coverage tier.

(d) If a retiree described by Subsection (b) is covered by the Medicare program, the retiree may enroll in any coverage tier under the group program and may add dependent coverage in that same coverage tier.

(e) This section does not affect the right of a retiree enrolled in a coverage tier under the group program to select a lower level of coverage at any time.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 50, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 213 (S.B. 1173), § 3, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 4, effective September 1, 2004; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 16.06, effective January 11, 2004; am. Acts 2009, 81st Leg., ch. 354 (H.B. 1191), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 354 (H.B. 1191), § 2 provides: "Section 1575.161(a), Insurance Code, as amended by this Act, applies only to an individual who retires on or after September 1, 2009. An individual who retires before September 1, 2009, is governed by the law as it existed on the date the individual retired, and that law is continued in effect for that purpose."

Sec. 1575.162. Special Enrollments.

This chapter does not limit the ability of an individual to enroll in the group program if the individual:

(1) experiences a special enrollment event as provided by the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936 (1996)), as amended; and

(2) is otherwise eligible to enroll in the group program.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 50, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 589 (H.B. 1735), § 4, effective June 20, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 4, effective September 1, 2004.)

Sec. 1575.163. Limitations.

The Teacher Retirement System of Texas, as trustee, may not contract for or provide a health benefit plan that excludes from participation in the network a general hospital that:

(1) is located in the geographical service area or areas of the health coverage plan that includes a county that:

(A) has a population of at least 100,000 and not more than 210,000; and

(B) is located in the Texas-Louisiana border region, as that term is defined in Section 2056.002(e), Government Code; and

(2) agrees to provide medical and health care services under the plan subject to the same terms and conditions as other hospital providers under the plan.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 50, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 57, effective September 1, 2011.)

Sec. 1575.164. Disease Management Services.

(a) In this section, "disease management services" means services to assist an individual manage a disease or other chronic health condition, such as heart disease, diabetes, respiratory illness, end-stage renal disease, HIV infection, or AIDS, and with respect to which the Teacher Retirement System of Texas identifies populations requiring disease management.

(b) A health benefit plan provided under this chapter must provide disease management services or coverage for disease management services in the manner required by the Teacher Retirement System of Texas, including:

(1) patient self-management education;

(2) provider education;

(3) evidence-based models and minimum standards of care;

(4) standardized protocols and participation criteria; and

(5) physician-directed or physician-supervised care.

(c) to (e) [Expired pursuant to the terms of subsection (e), effective January 1, 2006.]

(Enacted by Acts 2003, 78th Leg., ch. 589 (H.B. 1735), § 4, effective June 20, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 23.001(62), effective September 1, 2005 (renumbered from Sec. 1575.162).)

Sec. 1575.170. Prior Authorization for Certain Drugs.

(a) In this section, "drug formulary" means a list of drugs preferred for use and eligible for coverage under a health benefit plan.

(b) A health benefit plan provided under this chapter that uses a drug formulary in providing a prescription drug benefit must require prior authorization for coverage of the following categories of prescribed drugs if the specific drug prescribed is not included in the formulary:

(1) a gastrointestinal drug;

(2) a cholesterol-lowering drug;

(3) an anti-inflammatory drug;

(4) an antihistamine; and

(5) an antidepressant drug.

(c) [Repealed by Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(27), effective September 1, 2013.]

(Enacted by Acts 2003, 78th Leg., ch. 213 (S.B. 1173), § 3, effective September 1, 2003; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 16.07, effective January 11, 2004 (renumbered from Sec. 1575.161); am. Acts 2013, 83rd Leg., ch. 1312 (S.B. 59), § 99(27), effective September 1, 2013.)

SUBCHAPTER E
CONTRIBUTIONS

Sec. 1575.201. Additional State Contributions; Certain Contributions.

(a) The state through the trustee shall contribute from money in the fund:

(1) the total cost of the basic plan covering each participating retiree; and

(2) for each participating dependent, surviving spouse, and surviving dependent child, the amount prescribed by the General Appropriations Act to cover part of the cost of the basic plan covering the dependent, surviving spouse, and surviving dependent child.

(b) The trustee shall collect the amount of premium required for basic coverage under the group program that exceeds the amount contributed by the state for those individuals described by Subsection (a)(2).

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 51, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 5, effective September 1, 2004; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.432, effective September 1, 2003.)

Sec. 1575.202. State Contribution Based on Active Employee Compensation.

(a) Each state fiscal year, the state shall contribute to the fund an amount equal to one percent of the salary of each active employee.

(b) The state may contribute to the fund an amount in addition to the contribution required by Subsection (a).

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 52, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 6, effective September 1, 2003.)

Sec. 1575.203. Active Employee Contribution.

(a) Each state fiscal year, each active employee shall, as a condition of employment, contribute to the fund an amount equal to 0.65 percent of the employee's salary.

(b) The employer of an active employee shall monthly:

(1) deduct the employee's contribution from the employee's salary and remit the contribution to the trustee in the manner required by the trustee; or

(2) assume and pay the total contributions due from its active employees.

(c) Contributions to the fund deducted from the salary of an active employee are included in annual compensation for purposes of the Teacher Retirement System of Texas.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 53, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 366 (S.B. 1370), § 3.02, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 7, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.433, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), § 17.02, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 41, effective September 1, 2005.)

Sec. 1575.204. Public School Contribution.

(a) Each state fiscal year, each public school shall contribute to the fund the amount prescribed by the General Appropriations Act, which may not be less than 0.25 percent or greater than 0.75 percent of the salary of each active employee of the public school. The public school shall make the contributions on a monthly basis and as otherwise prescribed by the trustee.

(b) Each state fiscal year, each employer who reports to the retirement system under Section 824.6022, Government Code, the employment of a retiree who is enrolled in the group program shall contribute to the fund the difference, if any, between the contribution amount that the reported retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the trustee. The amounts required to be paid under this subsection are not required to be paid by a reporting employer for a retiree who retired from the retirement system before September 1, 2005.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 54, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 42, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1389 (S.B. 1846), § 4, effective September 1, 2007.)

Sec. 1575.205. Participant Contribution for Optional Plan.

(a) A retiree, surviving spouse, or surviving dependent child who elects an optional plan shall pay a monthly contribution to cover the cost of the plan. The trustee shall adopt rules for the collection of additional contributions.

(b) As a condition of electing coverage under an optional plan, a retiree or surviving spouse must, in writing, authorize the trustee to deduct the amount of the contribution from the person's monthly annuity payment.

(c) The trustee may spend a part of the money received for the group program to offset a part of the costs for optional coverage paid by retirees if the group program is projected to remain financially solvent during the currently funded biennium.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.434, effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 19, effective June 14, 2013.)

Sec. 1575.206. Contributions Held in Trust for Fund.

An employing public school and its governing body:

(1) hold contributions required by this subchapter in trust for the fund and its participants; and

(2) may not divert the contributions for any other purpose.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 22, effective September 1, 2011.)

Sec. 1575.207. Interest Assessed on Late Payment of Deposits by Employing Public Schools.

(a) An employing public school that does not remit to the trustee all contributions required by this subchapter before the seventh day after the last day of the month shall pay to the fund:

(1) the contributions; and

(2) interest on the unpaid amounts at the annual rate of six percent compounded monthly.

(b) On request, the trustee may grant a waiver of the deadline imposed by this section based on an

employing public school's financial or technological resources.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.435(a), effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 23, effective September 1, 2011.)

Sec. 1575.208. Certification of Amount Necessary to Pay State Contributions.

Not later than October 31 preceding each regular session of the legislature, the trustee shall certify the amount necessary to pay the state contributions to the fund to:

(1) the Legislative Budget Board; and

(2) the budget division of the governor's office.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.436, effective September 1, 2003.)

Sec. 1575.209. Certification of Amount of State Contributions.

Not later than August 31 of each year, the trustee shall certify to the comptroller the estimated amount of state contributions to be received by the fund for the next fiscal year under the appropriations authorized by this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.436, effective September 1, 2003.)

Sec. 1575.210. Payment of State Contributions; Reconciliation.

(a) Contributions allocated and appropriated under this subchapter for a state fiscal year shall be:

(1) paid from the general revenue fund in equal monthly installments;

(2) based on the estimated amount certified by the trustee to the comptroller for that year; and

(3) subject to any express limitations specified in the Act making the appropriation.

(b) A variation between the certified amount and the actual amount due for the state fiscal year shall be reconciled at the end of the fiscal year, and the annual contributions to the fund shall be adjusted accordingly.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.437, effective September 1, 2003.)

Sec. 1575.211. Cost Sharing.

(a) The total costs for the operation of the group program shall be shared among the state, the public schools, the active employees, and the retirees in the manner prescribed by the General Appropriations Act.

(b) In determining the allocation of total costs under this section, the state shall pay not more than 55 percent of the total costs, retirees shall pay at least 30 percent of the total costs, and the balance shall be paid by active employees and public schools.

(c) [Repealed by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 55(a)(2), effective September 1, 2005.]

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 55, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 8, effective September 1, 2004; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 16.08, effective September 1, 2004; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 55(a)(2), effective September 1, 2005.)

Sec. 1575.212. Payment by Retirees; Ranges.

(a) The trustee by rule shall establish ranges for payment of the share of total costs allocated under Section 1575.211 to retirees, with different levels for:

(1) retirees who are not eligible to participate in Part A of the Medicare program;

(2) retirees who are eligible for participation but are not participating in Part A of the Medicare program; and

(3) retirees who are eligible for participation in the Medicare program and are participating in Part A of the Medicare program.

(b) In establishing ranges for payment of the share of total costs allocated under Section 1575.211 to retirees, the trustee may consider the years of service credit accrued by a retiree and may reward those retirees with more years of service credit.

(Enacted by Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 55, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1231 (S.B. 1369), § 8, effective September 1, 2004.)

Sec. 1575.213. Certain Disability Retirees.

An individual who is eligible as a retiree under Section 1575.004(a)(3) shall pay an additional premium in an amount determined by the trustee. The amount of the premium may not exceed the total cost, as determined by the trustee, attributable to the participation of that retiree and the dependents of that retiree during the period the individual is eligible as a retiree under Section 1575.004(a)(3).

(Enacted by Acts 2007, 80th Leg., ch. 1230 (H.B. 2427), § 16, effective September 1, 2007.)

SUBCHAPTER F
FEDERAL OR PRIVATE SOURCE CONTRIBUTIONS

Sec. 1575.251. Definition.

In this subchapter, "employer" has the meaning assigned by Section 821.001, Government Code.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.252. Application by Employer for Money to Pay State Contributions.

An employer who applies for money provided by the United States or a privately sponsored source shall:

(1) if any of the money will pay part or all of an active employee's salary, also apply for any legally available money to pay state contributions required by Subchapter E; and

(2) immediately send any money received for state contributions as a result of the application to the trustee for deposit in the fund.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.438, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1223 (H.B. 2358), § 3, effective September 1, 2007.)

Sec. 1575.253. Monthly Certification.

An employer shall monthly certify to the trustee in a form prescribed by the trustee:

(1) the total amount of salary paid from federal funds and private grants; and

(2) the total amount of state contributions provided by the funds and grants.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.438, effective September 1, 2003.)

Sec. 1575.254. Monthly Maintenance of Information.

An employer shall monthly maintain:

(1) the name of each employee whose salary is paid wholly or partly from a grant;

(2) the source of the grant;

(3) the amount of the employee's salary paid from the grant;

(4) the amount of the money provided by the grant for state contributions for the employee; and

(5) any other information the trustee determines is necessary to enforce this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.438, effective September 1, 2003.)

Sec. 1575.255. Proof of Compliance.

The trustee may:

(1) require an employer to report an application for federal or private money;

(2) require evidence that the application includes a request for funds available to pay state contributions for active employees; and

(3) examine the records of an employer to determine compliance with this subchapter and rules adopted under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.438, effective September 1, 2003.)

Sec. 1575.256. Criminal Offense: Failure of Administrator to Comply.

(a) An administrator of an employer commits an offense if the administrator knowingly fails to comply with this subchapter.

(b) An offense under this section is a Class C misdemeanor.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.257. Civil Sanctions for Failure of Employer to Comply.

(a) An employer who fails to comply with this subchapter may not apply for or spend any money received from a federal or private grant.

(b) The trustee shall report an alleged noncompliance with this subchapter to the attorney general, the Legislative Budget Board, the comptroller, and the governor.

(c) On receipt of a report under Subsection (b), the attorney general shall bring a writ of mandamus against the employer to compel compliance with this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.439, effective September 1, 2003.)

SUBCHAPTER G
RETIRED SCHOOL EMPLOYEES GROUP INSURANCE FUND

Sec. 1575.301. Fund; Administration.

(a) The retired school employees group insurance fund is a trust fund with the comptroller, who is custodian of the fund.

(b) The trustee shall administer the fund.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.440(a), effective September 1, 2003.)

Sec. 1575.302. Payments into Fund.

The following shall be paid into the fund:

(1) contributions from active employees and the state, including contributions for optional coverages;

(2) investment income;

(3) appropriations for implementation of the group program; and

(4) other money required or authorized to be paid into the fund.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.303. Payments from Fund.

(a) The following shall, without state fiscal year limitation, be paid from the fund:

(1) the appropriate premiums to a carrier providing group coverage under a plan under this chapter;

(2) claims for benefits under the group coverage; and

(3) money spent by the trustee to administer the group program.

(b) The appropriate portion of the contributions to the fund to provide for incurred but unreported claim reserves and contingency reserves, as determined by the trustee, shall be retained in the fund.

(c) The fund is held in trust for the benefit of participants of the group program and may not be diverted.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.441, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 43, effective September 1, 2005.)

Sec. 1575.304. Transfer of Certain Contributions.

The trustee shall transfer into the fund the amounts deducted from annuities for contributions.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.441, effective September 1, 2003.)

Sec. 1575.305. Investment of Fund.

The trustee may invest money in the fund in the manner provided by Subchapter D, Chapter 825, Government Code, for assets of the Teacher Retirement System of Texas.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.441, effective September 1, 2003.)

Sec. 1575.306. Employee Contributions Property of Fund on Receipt; No Refund.

A contribution from an active employee:

(1) is the property of the fund on receipt by the trustee; and

(2) may not be refunded to the active employee under any circumstances, including termination of employment.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.441, effective September 1, 2003.)

SUBCHAPTER H
COORDINATED CARE NETWORK

Sec. 1575.351. Definitions.

In this subchapter:

(1) "Credentialing committee" means a credentialing committee created by the trustee under Section 1575.354.

(2) "Health care provider" means:

(A) an individual licensed as a health care practitioner; or

(B) a health care facility.

(3) "Network" means the coordinated care network implemented and administered by the trustee under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.442, effective September 1, 2003.)

Sec. 1575.352. Implementation and Administration.

The trustee may implement and administer a coordinated care network for the group program.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.443, effective September 1, 2003.)

Sec. 1575.353. Contracts with Health Care Providers and Others.

As the trustee determines is necessary to implement and administer the network, the trustee may contract with a health care provider or other individuals or entities.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003,

78th Leg., ch. 1276 (H.B. 3507), § 10A.443, effective September 1, 2003.)

Sec. 1575.354. Credentialing Committees.

The trustee may establish credentialing committees to evaluate the qualifications of health care providers to participate in the network.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.443, effective September 1, 2003.)

Sec. 1575.355. Immunity from Liability Arising from Acts or Omissions of Health Care Provider.

(a) The following are not liable for damages arising from an act or omission of a health care provider participating in the network:

(1) the trustee and its officers and employees, including the board of trustees of the trustee;

(2) the group program;

(3) the fund; and

(4) a member of an advisory committee to the trustee.

(b) A health care provider participating in the network is an independent contractor and is responsible for the provider's acts or omissions.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.444, effective September 1, 2003.)

Sec. 1575.356. Immunity from Liability Arising from Evaluation of Qualifications or Care.

The following are not liable for damages arising from an act, including a statement, determination, report of an act, or recommendation, committed without malice in the course of the evaluation of the qualifications of a health care provider or of the patient care provided by a health care provider participating in the network:

(1) the trustee and its officers and employees, including the board of trustees;

(2) the group program;

(3) the fund;

(4) a member of an advisory committee to the trustee; and

(5) a member of a credentialing committee.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.445, effective September 1, 2003.)

Sec. 1575.357. Immunity from Liability Arising from Acts Relating to Credentialing Committee.

An individual, a health care provider, or a medical peer review committee is not liable for damages arising from an act committed without malice that consists of:

(1) participating in the activity of a credentialing committee; or

(2) furnishing records, information, or assistance to a credentialing committee.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.358. Open Meetings Law Not Applicable to Credentialing Committee.

The proceedings of a credentialing committee are not subject to Chapter 551, Government Code.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.359. Records and Proceedings of Credentialing Committee Not Subject to Subpoena.

Except to the extent required by the constitution of this state or the United States, the records and proceedings of a credentialing committee and a communication made to a credentialing committee are not subject to court subpoena.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.360. Confidentiality.

Except as otherwise provided by this subchapter:

(1) proceedings and records of a credentialing committee are confidential; and

(2) a communication made to a credentialing committee is privileged.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.361. Disclosure to Health Care Provider.

Disclosure of confidential credentialing committee information that is relevant to the matter under review to an affected health care provider is not a waiver of the confidentiality requirements under this subchapter.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.362. Disclosure to Certain Entities.

(a) A written or oral communication made to a credentialing committee, or a record or proceeding of the committee, may be disclosed to an appropriate:

(1) state or federal agency, including a state board of registration or licensing;

(2) national accreditation body; or

(3) medical peer review committee.

(b) A disclosure under this section is not a waiver of the confidential and privileged nature of the information.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.363. Disclosure to Defendants in Civil Actions.

(a) Any of the following persons named as a defendant in any civil action filed as a result of participation in the credentialing process may use, including in the person's own defense, otherwise confidential information obtained for legitimate internal business and professional purposes:

(1) the trustee and its officers and employees, including the board of trustees;

(2) a credentialing committee;

(3) a person participating in a credentialing review;

(4) a health care provider;

(5) the group program; and

(6) a member of an advisory committee.

(b) Use of information under this section is not a waiver of the confidential and privileged nature of the information.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.446, effective September 1, 2003.)

SUBCHAPTER I
RETIREES ADVISORY COMMITTEE

Sec. 1575.401. Definition.

In this subchapter, "committee" means the Retirees Advisory Committee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.402. Appointment of Committee Members.

(a) The Retirees Advisory Committee is composed of the following nine members appointed by the trustee:

(1) one member who is an active school administrator;

(2) one member who is a retired school administrator;

(3) two members who are active teachers;

(4) three members who are retired teachers;

(5) one member who is an active member of the auxiliary personnel of a school district; and

(6) one member who is a retired member of the auxiliary personnel of a school district.

(b) A person is not eligible for appointment as a member of the committee if the person is required to register as a lobbyist under Chapter 305, Government Code.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.447, effective September 1, 2003.)

Sec. 1575.403. Terms.

(a) Members of the committee serve staggered four-year terms.

(b) Five members' terms, including the terms of the active school administrator, one active teacher, two retired teachers, and the retired member of the auxiliary personnel, expire February 1, 2002, and every fourth year after that date.

(c) The remaining members' terms expire February 1, 2004, and every fourth year after that date.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.404. Vacancy.

The trustee shall fill a vacancy on the committee by appointing a person who meets the qualifications applicable to the vacated position.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.448, effective September 1, 2003.)

Sec. 1575.405. Meetings.

(a) The committee shall meet:

(1) at least twice each year; and

(2) at the call of the trustee.

(b) If there is an emergency, the committee may meet at the call of a majority of the members of the committee.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.449, effective September 1, 2003.)

Sec. 1575.406. Duties.

The committee shall:

(1) hold public hearings on group coverage;

(2) recommend to the trustee minimum standards and features of a plan under the group program that the committee considers appropriate; and

(3) recommend to the trustee desirable changes in rules and legislation affecting the group program.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.450, effective September 1, 2003.)

Sec. 1575.407. Procedural Rules.

The trustee shall adopt procedural rules for the committee to follow in implementing its powers and duties under this subchapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.450, effective September 1, 2003.)

Sec. 1575.408. Reimbursement for Actual and Reasonable Expenses.

A committee member is entitled to reimbursement for actual and reasonable expenses incurred in performing functions as a committee member.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

SUBCHAPTER J ACCOUNTING, REPORTS, AND RECORDS

Sec. 1575.451. Annual Accounting.

(a) In this section, "plan year" means the period beginning on September 1 and ending on the following August 31.

(b) Group coverage purchased under this chapter must provide for an accounting to the trustee by each carrier providing the coverage.

(c) The accounting must be submitted:

(1) not later than the 90th day after the last day of each plan year; and

(2) on a form approved by the trustee.

(d) Each carrier shall prepare any other report that the trustee considers necessary.

(e) A carrier may not assess an extra charge for an accounting report.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.451, effective September 1, 2003.)

Sec. 1575.452. Annual Report.

Not later than the 180th day after the last day of each state fiscal year, the trustee shall submit a written report to the department concerning the group coverages provided to and the benefits and services being received by individuals covered under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.452, effective September 1, 2003.)

Sec. 1575.453. Study and Report by Trustee.

(a) The trustee shall study the operation and administration of this chapter, including:

(1) conducting surveys and preparing reports on financing group coverages and health benefit plans available to participants; and

(2) studying the experience and projected cost of coverage.

(b) The trustee shall report to the legislature at each regular session on the operation and administration of this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.452, effective September 1, 2003.)

Sec. 1575.454. Reports by and Examination of Carrier.

Each contract entered into under this chapter between the trustee and a carrier must require the carrier to:

(1) furnish to the trustee in a timely manner reasonable reports that the trustee determines are necessary to implement this chapter; and

(2) permit the trustee and the state auditor to examine records of the carrier as necessary to implement this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.452, effective September 1, 2003.)

Sec. 1575.455. Public Inspection.

A report required by this chapter shall be made available for public inspection in a form that protects the identity of individual claimants.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.456. Confidentiality of Records.

(a) Section 825.507, Government Code, concerning confidentiality and disclosure of records applies to records in the custody of the Teacher Retirement System of Texas or in the custody of an administrator, carrier, agent, attorney, consultant, or governmental body acting in cooperation with or on behalf of the system relating to a retiree, active employee, annuitant, or beneficiary under the group program.

(b) The Teacher Retirement System of Texas may disclose to a health or benefit provider information

in the records of an individual that the system determines is necessary to administer the group program.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.453(a), effective September 1, 2003.)

SUBCHAPTER K
EXPULSION FOR FRAUD

Sec. 1575.501. Expulsion for Fraud.

After notice and hearing as provided by this subchapter, the trustee may expel from participation in the group program a retiree, dependent, surviving spouse, or surviving dependent child who:

(1) submits a fraudulent claim or application for coverage under the group program; or

(2) defrauds or attempts to defraud a health benefit plan offered under the group program.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.454(a), effective September 1, 2003.)

Sec. 1575.502. Hearing.

On receipt of a complaint or on its own motion, the trustee may call and hold a hearing to determine whether an individual has acted in the manner described by Section 1575.501.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.455, effective September 1, 2003.)

Sec. 1575.503. Contested Case.

A proceeding under this subchapter is a contested case under Chapter 2001, Government Code.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.504. Expulsion at Conclusion of Hearing.

At the conclusion of the hearing under Section 1575.502, if the trustee determines that the individual acted in the manner described by Section 1575.501, the trustee shall expel the individual from participation in the group program.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.455, effective September 1, 2003.)

Sec. 1575.505. Effect of Expulsion.

An individual expelled from participation in the group program may not be covered by a health benefit plan offered under the group program for a period determined by the trustee, not to exceed five years, beginning on the date the expulsion takes effect.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.455, effective September 1, 2003.)

Sec. 1575.506. Appeal.

An appeal of a determination by the trustee under this subchapter is under the substantial evidence rule.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.455, effective September 1, 2003.)

SUBCHAPTER R
COVERAGE OF ACTIVE EMPLOYEES OF PARTICIPATING SCHOOL DISTRICTS [REPEALED]

Sec. 1575.801. Participation by Public School Districts [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.802. Board of Trustees Regulation of Participation by School Districts [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.803. Participation by Active Employees and Dependents [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.804. Alternative Health Benefit Plan for Active Employees [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.805. Optional Group Coverage for Active Employees [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.806. School District Contribution for Active Employees [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1575.807. Additional State Contributions Authorized [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.418(b), effective September 1, 2003.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

CHAPTER 1576
GROUP LONG-TERM CARE INSURANCE FOR PUBLIC SCHOOL EMPLOYEES

Section

Sec. 1576.001. Definitions.

In this chapter:

(1) "Active employee" has the meaning assigned by Section 1575.002.

(2) "Trustee" means the Teacher Retirement System of Texas.

(3) "Retiree" has the meaning assigned by Section 1575.004.

(4) "Surviving spouse" has the meaning assigned by Section 1575.003.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.457, effective September 1, 2003.)

Sec. 1576.002. Establishment of Program.

(a) The trustee may establish a group long-term care insurance program to provide long-term care insurance coverage for:

(1) an active employee or retiree;

(2) the spouse of an active employee or retiree, including a surviving spouse;

(3) a parent or grandparent of an active employee or retiree; and

(4) a parent of the spouse of an employee or retiree, including a parent of a surviving spouse.

(b) The trustee may not implement a group long-term care insurance program unless any cost or administrative burden associated with the development of, implementation of, or communications about the program is incidental.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.458, effective September 1, 2003.)

Sec. 1576.003. Contracts to Provide Coverages.

The trustee may contract with one or more carriers authorized to provide long-term care insurance to provide that coverage.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.458, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 44, effective September 1, 2005.)

Sec. 1576.004. Premiums.

(a) The trustee shall determine the procedures by which each program participant pays premiums and any other program costs. Each participant is responsible for required payments.

(b) The trustee may authorize any payment method appropriate for the program, including a payment method under which:

(1) a participating employee is required to pay premiums by payroll deduction remitted by the employee's employer at the times and in the manner determined by the trustee;

(2) a participating retiree is required to pay premiums by deduction from the retiree's monthly annuity; or

(3) a carrier with which the trustee has contracted under Section 1576.003 bills a program participant directly.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 44, effective September 1, 2005.)

Sec. 1576.005. Program Not Part of Other Group Coverages.

(a) The group long-term care insurance program is not part of the group coverages offered under Chapter 1575 or 1579.

(b) The state may not contribute any part of the premiums for coverage offered under this chapter.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 45, effective September 1, 2005.)

Sec. 1576.006. Rules.

The trustee may adopt rules as necessary to administer this chapter.
(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.458, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 46, effective September 1, 2005.)

Sec. 1576.007. Exemption from State Taxes and Fees.

A premium or contribution on a policy, insurance contract, or agreement authorized under this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.459(a), effective September 1, 2003.)

Sec. 1576.008. Competitive Bidding Requirements; Rules.

(a) A contract to provide benefits under this chapter may be awarded only through competitive bidding under rules adopted by the trustee.

(b) The rules may provide criteria for determining whether a carrier is qualified.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 47, effective September 1, 2005.)

Sec. 1576.009. Contract Award; Considerations.

(a) In awarding a contract under this chapter, the trustee is not required to select the lowest bid and may consider any relevant criteria, including a bidder's:

(1) ability to service contracts;

(2) past experience; and

(3) financial stability.

(b) If the trustee awards a contract to a bidder whose bid deviates from that advertised, the trustee shall record the deviation and fully justify the reason for the deviation in the minutes of the next meeting of the trustee.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 47, effective September 1, 2005.)

Sec. 1576.010. Group Long-Term Care Insurance Program Fund.

(a) The group long-term care insurance program fund is a trust fund with the comptroller.

(b) The trustee shall administer the fund on behalf of the participants in the plan of insurance coverage provided under this chapter.

(c) The following shall be credited to the fund:

(1) money recovered under contracts for providing insurance coverage under this chapter; and

(2) investment and depository income.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 47, effective September 1, 2005.)

Sec. 1576.011. Investment of Fund.

The trustee may invest the group long-term care insurance program fund in the manner provided by Section 67(a) (3), Article XVI, Texas Constitution.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 47, effective September 1, 2005.)

Sec. 1576.012. Payments from Fund.

Money in the group long-term care insurance program fund may be used only to cover the cost of administering the program and to provide coverage under this chapter.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 47, effective September 1, 2005.)

Sec. 1576.013. Coverage Exempt from Insurance Law.

A coverage plan provided under this chapter is exempt from any other insurance law, including common law, that does not expressly apply to the plan or this chapter.
(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 47, effective September 1, 2005.)

CHAPTER 1578
PURCHASE OF INSURANCE BY ASSOCIATION OF TEACHERS AND SCHOOL ADMINISTRATORS

Subchapter A. General Provisions

Section

Subchapter B. Purchase of Insurance

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1578.001. Applicability of Chapter.

This chapter applies only to a voluntary association that is:

(1) composed of teachers or school administrators of public or private primary or secondary schools, colleges, or universities; and

(2) incorporated under federal law or a law of this state on a nonprofit membership basis.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1578.002. Authority to Issue.

Notwithstanding any other law, an insurance company authorized to engage in the business of insurance in this state may issue a group policy to a voluntary association in accordance with this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

SUBCHAPTER B
PURCHASE OF INSURANCE

Sec. 1578.051. Authority to Obtain Insurance.

(a) A voluntary association may obtain for any class of the association's membership and for the class's dependents a group policy of:

(1) life insurance;

(2) health insurance;

(3) accident insurance;

(4) accidental death or dismemberment insurance; or

(5) hospital, surgical, or medical expense insurance.

(b) The association may obtain a separate policy for each type of insurance listed under Subsection (a).

(c) The association is the policyholder.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1578.052. Payment of Premium.

A voluntary association that obtains a group policy under this chapter shall pay the premium for the policy wholly or partly from money:

(1) contributed by the association; or

(2) contributed by the insured association members for that purpose.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1578.053. Minimum Requirements to Obtain Policy.

(a) A voluntary association may obtain a group policy under this chapter only if the policy will cover at least 25 association members on the date of issue.

(b) If the premium for the group policy is paid wholly or partly from money contributed by association members for that purpose, the policy on the date of issue must cover at least the lesser of 75 percent of the eligible members or 400 members, excluding any member whose evidence of individual insurability is not satisfactory to the insurer, who elect to make the required contributions and to be insured under the policy.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

Sec. 1578.054. Amount of Insurance.

The amount of insurance under a policy issued under this chapter must be based on a plan that precludes individual selection by the voluntary association or an insured association member.

(Enacted by Acts 2001, 77th Leg., ch. 1419 (H.B. 2811), § 3, effective June 1, 2003.)

CHAPTER 1579
TEXAS SCHOOL EMPLOYEES UNIFORM GROUP HEALTH COVERAGE

Subchapter A. General Provisions

Subchapter B. Administration

Subchapter C. Coverages

Subchapter D. Participating Entities

Subchapter E. Participation by Employee

Subchapter F. Contributions

Subchapter G. Texas School Employees Uniform Group Coverage Trust Fund

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1579.001. Short Title.

This chapter may be cited as the Texas School Employees Uniform Group Health Coverage Act.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.002. General Definitions.

In this chapter:

(1) "Administering firm" means any entity designated by the trustee to administer any coverages, services, benefits, or requirements under this chapter and the trustee's rules adopted under this chapter.

(2) "Trustee" means the Teacher Retirement System of Texas.

(3) "Charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code.

(4) "Health coverage plan" means any group policy or contract, hospital service agreement, health maintenance organization agreement, preferred provider arrangement, or any similar group arrangement or any combination of those policies, contracts, agreements, or arrangements that provides for, pays for, or reimburses expenses for health care services.

(5) "Participating entity" means an entity participating in the uniform group coverage program established under this chapter. The term includes:

(A) a school district;

(B) another educational district whose employees are members of the Teacher Retirement System of Texas;

(C) a regional education service center; and

(D) a charter school that meets the requirements of Section 1579.154.

(6) "Program" means the uniform group coverage program established under this chapter.

(7) "Regional education service center" means a regional education service center established under Chapter 8, Education Code.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.003. Definition of Employee.

In this chapter, "employee" means a participating member of the Teacher Retirement System of Texas who is employed by a participating entity and who is not receiving coverage from a program under Chapter 1551, 1575, or 1601. The term does not include an individual performing personal services as an independent contractor.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.004. Definition of Dependent.

In this chapter, "dependent" means:

(1) a spouse of a full-time employee or part-time employee;

(2) a child of a full-time or part-time employee if the child is younger than 26 years of age, including:

(A) an adopted child or child who is lawfully placed for adoption;

(B) a foster child, stepchild, or other child who is in a regular parent-child relationship; and

(C) a natural child;

(3) a full-time or part-time employee's natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or has his or her care provided by the employee or the surviving spouse on a regular basis, regardless of the child's age, if the child has a mental disability or is physically incapacitated to an extent that the child is dependent on the employee or surviving spouse for care or support, as determined by the board of trustees; and

(4) notwithstanding any other provision of this code, any other dependent of a full-time or part-time employee specified by rules adopted by the board of trustees.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 455 (S.B. 1667), § 24, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 20, effective June 14, 2013.)

Sec. 1579.005. Confidentiality.

(a) Section 825.507, Government Code, applies to records relating to an employee or dependent under the program and in the custody of the Teacher Retirement System of Texas or in the custody of an administrator, carrier, agent, attorney, consultant, or governmental body acting in cooperation with or on behalf of the system.

(b) The Teacher Retirement System of Texas may disclose to a health care provider, benefit provider, or claims administrator information in the records of an individual that the system determines is necessary to administer the program.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 48, effective September 1, 2005.)

Sec. 1579.006. Exemption from Process.

(a) The following are exempt from execution, attachment, garnishment, or any other process:

(1) benefit payments, including optional benefit payments;

(2) contributions of active employees, the state, and a participating entity, and any other contributions;

(3) any rights, benefits, or payments accruing to any person under this chapter; and

(4) any money in the Texas school employees uniform group coverage trust fund.

(b) The items listed in Subsection (a) may not be assigned except for direct payment to benefit providers as authorized by the trustee by contract, rule, or otherwise.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 48, effective September 1, 2005.)

Sec. 1579.007. Exemption from State Taxes and Fees.

A premium or contribution on a policy, insurance contract, or agreement authorized by this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 48, effective September 1, 2005.)

Sec. 1579.008. Coverage Exempt from Insurance Law.

A coverage plan provided under this chapter is exempt from any other insurance law, including common law, that does not expressly apply to the plan or this chapter.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 48, effective September 1, 2005.)

SUBCHAPTER B ADMINISTRATION

Sec. 1579.051. Administration of Group Program.

The Teacher Retirement System of Texas, as trustee, shall implement and administer the uniform group coverage program described by this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.052. Authority to Adopt Rules; Other Authority.

(a) The trustee may adopt rules relating to the program as considered necessary by the trustee.

(b) The trustee may adopt rules to administer the program, including rules relating to adjudication of claims and expelling participants from the program for cause.

(c) The trustee may contract with independent and experienced group insurance consultants and actuaries for advice and counsel in implementing and administering the program.

(d) The trustee may enter into interagency contracts with any agency of the state, including the Employees Retirement System of Texas and the department, for the purpose of assistance in implementing the program.

(e) The trustee shall take the actions it considers necessary to devise, implement, and administer the program.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 49, effective September 1, 2005.)

Sec. 1579.053. Personnel.

The trustee may hire and compensate employees as necessary to implement the program.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.054. Competitive Bidding Requirements; Rules.

A contract to provide group health coverage under this chapter may be awarded only through competitive bidding under rules adopted by the trustee.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.055. Contract Award; Considerations.

(a) In awarding a contract to provide group benefits under this chapter, the trustee is not required

to select the lowest bid and may consider also any relevant criteria, including the bidder's:

(1) ability to service contracts;

(2) past experiences; and

(3) financial stability.

(b) If the trustee awards a contract to a bidder whose bid deviates from that advertised, the trustee shall record the deviation and fully justify the reason for the deviation in the minutes of the next board meeting.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.057. Pharmacy Benefit Manager Contracts.

(a) In awarding a contract to provide pharmacy benefit manager services under this chapter, the trustee is not required to select the lowest bid but must select a contract that meets the criteria established by this section.

(b) The contract must state that:

(1) the trustee is entitled to audit the pharmacy benefit manager to verify costs and discounts associated with drug claims, pharmacy benefit manager compliance with contract requirements, and services provided by subcontractors;

(2) the audit must be conducted by an independent auditor in accordance with established auditing standards; and

(3) to conduct the audit, the trustee and the independent auditor are entitled access to information related to the services and the costs associated with the services performed under the contract, including access to the pharmacy benefit manager's facilities, records, contracts, medical records, and agreements with subcontractors.

(c) The contract must define the information that the pharmacy benefit manager is required to provide to the trustee concerning the audit of the retail, independent, and mail order pharmacies performing services under the contract and describe how the results of these audits must be reported to the trustee, including how often the results must be reported. The contract must state whether the pharmacy benefit manager is required to return recovered overpayments to the trustee.

(d) The contract must state that any audit of a mail order pharmacy owned by the pharmacy benefit manager must be conducted by an independent auditor selected by the trustee in accordance with established auditing standards.

(Enacted by Acts 2009, 81st Leg., ch. 1207 (S.B. 704), § 7, effective September 1, 2009.)

SUBCHAPTER C COVERAGES

Sec. 1579.101. Plans of Group Coverages.

(a) The trustee by rule shall establish plans of group coverages for employees participating in the program and their dependents.

(b) The plans must include at least two tiers of group coverage, with coverage at different levels in each tier, ranging from the catastrophic care coverage plan to the primary care coverage plan. Each tier must contain a health coverage plan.

(c) The trustee by rule shall define the requirements of each coverage plan and tier of coverage.

(d) Comparable coverage plans of each tier of coverage established must be offered to employees of all participating entities.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.102. Catastrophic Care Coverage Plan.

The coverage provided under the catastrophic care coverage plan shall be prescribed by the trustee by rule and must provide coverage at least as extensive as the coverage provided under the TRS-Care 1 plan operated under Chapter 1575.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 50, effective September 1, 2005.)

Sec. 1579.103. Primary Care Coverage Plan [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1078 (H.B. 3357), § 23(6), effective June 14, 2013 and by Acts 2013, 83rd Leg., ch. 1214 (S.B. 1458), § 11, effective September 1, 2013.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.104. Optional Coverages.

The trustee may not offer optional coverages, other than optional permanent life insurance, optional long-term care insurance, and optional disability insurance, to employees participating in the program. This section does not affect the right of a participating entity to offer optional coverages to its employees under terms and conditions established by the participating entity.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003;

am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 51(a), effective September 1, 2005.)

Sec. 1579.105. Preexisting Condition Limitation.

During the initial period of eligibility, coverage provided under the program may not be made subject to a preexisting condition limitation.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.106. Prior Authorization for Certain Drugs.

(a) In this section, "drug formulary" means a list of drugs preferred for use and eligible for coverage by a health coverage plan.

(b) A health coverage plan provided under this chapter that uses a drug formulary in providing a prescription drug benefit must require prior authorization for coverage of the following categories of prescribed drugs if the specific drug prescribed is not included in the formulary:

(1) a gastrointestinal drug;
(2) a cholesterol-lowering drug;
(3) an anti-inflammatory drug;
(4) an antihistamine drug; and
(5) an antidepressant drug.

(c) Every six months the trustee shall submit to the comptroller and the Legislative Budget Board a report regarding any cost savings achieved in the program through implementation of the prior authorization requirement of this section. The report must cover the previous six-month period.
(Enacted by Acts 2007, 80th Leg., ch. 730 (H.B. 2636), § 1G.003, effective April 1, 2009.)

Sec. 1579.107. Disease Management Services.

(a) In this section, "disease management services" means services to assist an individual manage a disease or other chronic health condition, such as heart disease, diabetes, respiratory illness, end-stage renal disease, HIV infection, or AIDS, and with respect to which the trustee identifies populations requiring disease management.

(b) A health coverage plan provided under this chapter must provide disease management services or coverage for disease management services in the manner required by the trustee, including:

(1) patient self-management education;
(2) provider education;
(3) evidence-based models and minimum standards of care;
(4) standardized protocols and participation criteria; and
(5) physician-directed or physician-supervised care.

(Enacted by Acts 2007, 80th Leg., ch. 730 (H.B. 2636), § 1G.003, effective April 1, 2009.)

Sec. 1579.108. Limitations.

The trustee may not contract for or provide a health coverage plan that excludes from participation in the network a general hospital that:

(1) is located in the geographical service area or areas of the health coverage plan that includes a county that:

(A) has a population of at least 100,000 and not more than 210,000; and

(B) is located in the Texas-Louisiana border region, as that term is defined in Section 2056.002(e), Government Code; and

(2) agrees to provide medical and health care services under the plan subject to the same terms as other hospital providers under the plan.

(Enacted by Acts 2007, 80th Leg., ch. 730 (H.B. 2636), § 1G.003, effective April 1, 2009; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 58, effective September 1, 2011.)

SUBCHAPTER D
PARTICIPATING ENTITIES

Sec. 1579.151. Required Participation of School Districts with 500 or Fewer Employees.

(a) Each school district with 500 or fewer employees and each regional education service center is required to participate in the program.

(b) Notwithstanding Subsection (a), a school district otherwise subject to Subsection (a) that, on January 1, 2001, was individually self-funded for the provision of health coverage to its employees may elect not to participate in the program.

(c) An educational district described by Section 1579.002(5)(B) that, on January 1, 2001, had 500 or fewer employees may elect not to participate in the program.

(d) [Expired pursuant to Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective March 1, 2004.]
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.152. Participation of Other School Districts.

Effective September 1, 2005, a school district with more than 500 employees may elect to participate in the program. A school district that elects to partici-

pate under this section shall apply for participation in the manner prescribed by the trustee by rule.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.1525. Participation of Other School Districts Before September 1, 2005 [Expired].

Expired pursuant to Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2005.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.153. Participation by Certain Risk Pools.

(a) In determining the number of employees of a school district for purposes of Sections 1579.151 and 1579.152, school districts that, on January 1, 2001, were members of a risk pool established under the authority of Chapter 172, Local Government Code, as provided by Section 22.004, Education Code, may elect to be treated as a single unit. A school district shall elect whether to be considered as a member of a risk pool under this section by notifying the trustee not later than September 1, 2001.

(b) A risk pool in existence on January 1, 2001, that, as of that date, provided group health coverage to 500 or fewer school district employees may elect to participate in the program.

(c) A school district with 500 or fewer employees that is a member of a risk pool described by Subsection (a) that provides group health coverage to more than 500 school district employees must elect, not later than September 1, 2001, whether to be treated as a school district with 500 or fewer employees or as part of a unit with more than 500 employees. The school district must notify the trustee of the election, in the manner prescribed by the trustee, not later than September 1, 2001.

(d) For purposes of this section, participation in the program by school districts covered by a risk pool is limited to school districts covered by the risk pool as of January 1, 2001.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.154. Participation by Charter Schools; Eligibility.

(a) A charter school is eligible to participate in the program if the school agrees:

(1) that all records of the school relating to participation in the program are open to inspection by the trustee, the administering firm, the commissioner of education, or a designee of any of those entities; and

(2) to have the school's accounts relating to participation in the program annually audited by a certified public accountant at the school's expense.

(b) A charter school must notify the trustee of the school's intent to participate in the program in the manner and within the time required by rules adopted by the trustee.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

SUBCHAPTER E
PARTICIPATION BY EMPLOYEE

Sec. 1579.201. Definition.

In this subchapter, "full-time employee" and "part-time employee" have the meanings assigned by rules adopted by the trustee.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.202. Eligible Employees.

(a) Except as provided by Section 1579.204, participation in the program is limited to employees of participating entities who are full-time employees and to part-time employees who are participating members in the Teacher Retirement System of Texas.

(b) An employee described by Subsection (a) who applies for coverage during an open enrollment period prescribed by the trustee is automatically covered by the catastrophic care coverage plan unless the employee:

(1) specifically waives coverage under this chapter;

(2) selects a higher tier coverage plan; or

(3) is expelled from the program.
(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.203. Selection of Coverage.

(a) A participating employee may select coverage in any coverage plan offered by the trustee.

(b) The employee is not required to continue participation in the coverage plan initially selected and may select a higher or lower tier coverage plan than the plan initially selected by the employee in the manner provided by rules adopted by the trustee.

(c) If the combined contributions received from the state and the employing participating entity under Subchapter F exceed the cost of a coverage plan selected by the employee, the employee may use the excess amount of contributions to obtain coverage under a higher tier coverage plan or to pay

all or part of the cost of coverage for the employee's dependents.

(d) A married couple, both of whom are eligible for coverage under the program, may pool the amount of contributions to which the couple are entitled under the program to obtain coverage for themselves and dependent coverage.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.204. Certain Part-Time Employees.

A part-time employee of a participating entity who is not a participating member in the Teacher Retirement System of Texas is eligible to participate in the program only if the employee pays all of the premiums and other costs associated with the health coverage plan selected by the employee.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.205. Payment by Participating Entity.

Notwithstanding Section 1579.204, a participating entity may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

SUBCHAPTER F
CONTRIBUTIONS

Sec. 1579.251. State Assistance.

(a) The state shall assist employees of participating school districts and charter schools in the purchase of group health coverage under this chapter by providing for each covered employee the amount of $900 each state fiscal year or a greater amount as provided by the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools as provided by Section 42.260, Education Code.

(b) The state shall assist employees of participating regional education service centers and educational districts described by Section 1579.002(5)(B) in the purchase of group health coverage under this chapter by providing to the employing service center or educational district, for each covered employee, the amount of $900 each state fiscal year or a greater amount as provided by the General Appropriations Act.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 83, effective September 1, 2009.)

Sec. 1579.252. Contribution by Participating Entities.

A participating entity shall make contributions for the program as provided by Chapter 1581.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.253. Contribution by Employee.

(a) An employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of the state contribution under Section 1579.251 and the participating entity contribution under Section 1579.252.

(b) The employee may pay the employee's contribution under this subsection from the amount distributed to the employee under Subchapter D, Chapter 22, Education Code.

(c) Notwithstanding Subsection (a), a participating entity may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), § 18.04, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 52, effective September 1, 2005.)

Sec. 1579.254. Contributions Held in Trust for Fund.

A participating entity:

(1) shall hold contributions required by this subchapter in trust for the Texas school employees uniform group coverage trust fund and its participants; and

(2) may not divert the contributions for any other purpose.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 53, effective September 1, 2005.)

Sec. 1579.255. Interest Assessed on Late Payment of Contributions by Participating Entities.

(a) A participating entity that does not remit to the trustee all contributions required by this subchapter before the seventh day after the last day of the month shall pay to the Texas school employees uniform group coverage trust fund:

(1) the contributions; and

(2) interest on the unpaid amounts at the annual rate of six percent compounded monthly.

(b) On request, the trustee may grant a waiver of the deadline imposed by this section based on a participating entity's financial or technological resources.

(Enacted by Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 53, effective September 1, 2005.)

SUBCHAPTER G
TEXAS SCHOOL EMPLOYEES UNIFORM GROUP COVERAGE TRUST FUND

Sec. 1579.301. Fund; Administration.

The Texas school employees uniform group coverage trust fund is a trust fund with the comptroller.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.302. Composition of Fund.

The fund is composed of:

(1) all contributions made to the fund under this chapter from employees, participating entities, and the state;

(2) contributions made by employees or participating entities for optional coverages;

(3) investment income;

(4) any additional amounts appropriated by the legislature for contingency reserves, administrative expenses, or other expenses; and

(5) any other money required or authorized to be paid into the fund.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.303. Payments from Fund.

The trustee may use amounts in the fund only to provide group coverages under this chapter and to pay the expenses of administering the program.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1579.304. Investment of Fund.

The trustee may invest assets of the fund in the manner provided by Section 67(a)(3), Article XVI, Texas Constitution.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

CHAPTER 1581
EMPLOYER EXPENDITURES FOR SCHOOL EMPLOYEE HEALTH COVERAGE PLANS

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 1581.001. Definitions.

In this chapter:

(1) "Participating employee" means an employee of a school district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center who participates in a group health coverage plan provided by or through the district, school, or service center.

(2) "Participating charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code, that participates in the uniform group coverage program established under Chapter 1579.

(3) "Regional education service center" means a regional education service center established under Chapter 8, Education Code.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

SUBCHAPTER B
MAINTENANCE OF EFFORT; MINIMUM EFFORT

Sec. 1581.051. Maintenance of Effort for 2000—2001 School Year.

(a) Subject to Sections 1581.052 and 1581.053, and except as provided by Section 1581.054, a school

district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center that, for the 2000-2001 school year, paid amounts to share with employees the cost of coverage under a group health coverage plan shall, for each fiscal year, use to provide health coverage an amount for each participating employee at least equal to the amount computed as provided by this section.

(b) The school district, other educational district, participating charter school, or regional education service center shall divide the amount that the district, school, or service center paid during the 2000-2001 school year for the prior group health coverage plan by the total number of full-time employees of the district, school, or service center in the 2000-2001 school year and multiply the result by the number of full-time employees of the district, school, or service center in the fiscal year for which the computation is made. If, for the 2000-2001 school year, a school district, other educational district, participating charter school, or regional education service center provided group health coverage to its employees through a self-funded insurance plan, the amount the district, school, or service center paid during that school year for the plan includes only the amount of regular contributions made by the district, school, or service center to the plan.

(c) Amounts used as required by this section shall be deposited, as applicable, in a fund described by Section 1581.052(b).

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.052. Required Minimum Effort.

(a) A school district, other educational district, participating charter school, or regional education service center shall, for each fiscal year, use to provide health coverage an amount equal to the number of participating employees of the district, school, or service center multiplied by $1,800.

(b) Amounts used as required by this section shall be deposited, as applicable, in:

(1) the Texas school employees uniform group coverage trust fund established under Subchapter G, Chapter 1579; or

(2) another fund established for the payment of employee health coverage that meets requirements for those funds prescribed by the Texas Education Agency.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.053. Use of State Funds.

(a) To comply with Section 1581.052, a school district or participating charter school may use state funds received under Chapter 42, Education Code, other than funds that may be used under that chapter only for a specific purpose.

(b) Notwithstanding Subsection (a), amounts a district or school is required to use to pay contributions under a group health coverage plan for district or school employees under Section 42.260, Education Code, other than amounts described by Section 42.260(c)(2)(B), are not used in computing whether the district or school complies with Section 1581.052.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 84, effective September 1, 2009.)

Sec. 1581.054. Excess of Maintenance of Effort.

If the amount a school district, other educational district, or participating charter school is required to use to provide health coverage under Section 1581.051 for a fiscal year exceeds the amount necessary for the district or school to comply with Section 1581.052(a) for that year, the district or school may use the excess only to provide employee compensation at a rate greater than the rate of compensation that the district or school paid an employee in the 2000-2001 school year, benefits, or both.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

SUBCHAPTER C
STATE ASSISTANCE FOR MEETING MINIMUM EFFORT [REPEALED]

Sec. 1581.101. State Fiscal Years After August 31, 2001 [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(b), effective September 1, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.1015. Certain Fiscal Years [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(b), effective September 1, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.102. aximum Amount of State Funds [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(b), effective September 1, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.103. Distribution of Funds [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(b), effective September 1, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.104. Recovery of Distributions [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(b), effective September 1, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.105. Determination of Teacher Retirement System of Texas Final [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 105(b), effective September 1, 2009.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

SUBCHAPTER O ADDITIONAL SUPPORT FOR CERTAIN SCHOOL DISTRICTS [EXPIRED]

Sec. 1581.701. Applicability of Subchapter [Expired].

Expired pursuant to Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2008.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.702. Additional Support [Expired].

Expired pursuant to Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2008.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 899 (S.B. 1863), § 18.05, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1359 (S.B. 1691), § 54, effective September 1, 2005.)

Sec. 1581.703. Authority to Adopt Rules [Expired].

Expired pursuant to Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2008.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Sec. 1581.704. Expiration [Expired].

Expired pursuant to Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2008.

(Enacted by Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 10A.471(a), effective September 1, 2003.)

Labor Code

TITLE 2
PROTECTION OF LABORERS

SUBTITLE B
RESTRICTIONS ON LABOR

CHAPTER 51
EMPLOYMENT OF CHILDREN

Subchapter A. General Provisions

Subchapter B. Restrictions on Employment

Subchapter C. Administrative Provisions

Subchapter D. Penalty and Defense

Subchapter E. Collection of Penalty

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 51.001. Purpose.

The purpose of this chapter is to ensure that a child is not employed in an occupation or manner that is detrimental to the child's safety, health, or well-being.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.002. Definitions.

In this chapter:

(1) "Child" means an individual under 18 years of age.

(2) "Commission" means the Texas Workforce Commission.

(3) "Delivery of newspapers" means the distribution of newspapers on or the maintenance of a newspaper route. The term does not include direct sales of newspapers to the general public.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 648 (H.B. 2930), § 1, effective September 1, 2005.)

Sec. 51.003. General Exemptions.

(a) This chapter does not apply to employment of a child:

(1) employed:

(A) in a nonhazardous occupation;

(B) under the direct supervision of the child's parent or an adult having custody of the child; and

(C) in a business or enterprise owned or operated by the parent or custodian;

(2) 11 years or older engaged in delivery of newspapers to the consumer;

(3) participating in a school-supervised and school-administered work-study program approved by the commission;

(4) employed in agriculture during a period when the child is not legally required to be attending school;

(5) employed through a rehabilitation program supervised by a county judge;

(6) engaged in nonhazardous casual employment that will not endanger the safety, health, or well-being of the child and to which the parent or adult having custody of the child has consented; or

(7) 16 years or older engaged in the direct sale of newspapers to the general public.

(b) In this section, "employment in agriculture" means engaged in producing crops or livestock and includes:

(1) cultivating and tilling the soil;

(2) producing, cultivating, growing, and harvesting an agricultural or horticultural commodity;

(3) dairying; and

(4) raising livestock, bees, fur-bearing animals, or poultry.

(c) For the purposes of Subsection (a)(6), the commission by rule may define nonhazardous casual employment that the commission determines is dangerous to the safety, health, or well-being of a child.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 648 (H.B. 2930), § 2, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1184 (H.B. 581), § 1, effective June 15, 2007.)

SUBCHAPTER B
RESTRICTIONS ON EMPLOYMENT

Sec. 51.011. Minimum Age.

Except as provided by this chapter, a person commits an offense if the person employs a child under 14 years of age.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.012. Performer Exemption.

The commission by rule may authorize the employment of children under 14 years of age as performers in a motion picture or a theatrical, radio, or television production.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.013. Hours of Employment; Hardship Exemption.

(a) A person commits an offense if the person permits a child who is 14 or 15 years of age and who is employed by the person to work more than:

(1) eight hours in one day; or

(2) 48 hours in one week.

(b) A person commits an offense if the person permits a child who is 14 or 15 years of age, is employed by the person, and is enrolled in a term of a public or private school to work:

(1) between the hours of 10 p.m. and 5 a.m. on a day that is followed by a school day; or

(2) between the hours of midnight and 5 a.m. on a day that is not followed by a school day.

(c) A person commits an offense if the person permits a child who is 14 or 15 years of age, is employed by the person, and is not enrolled in summer school to work between the hours of midnight and 5 a.m. on any day during the time that school is recessed for the summer.

(d) The commission may adopt rules for determining whether hardships exist. If, on the application of a child, the commission determines that a hardship exists for that child, this section does not apply to that child.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.014. Hazardous Occupations.

(a) The commission by rule shall declare an occupation to be hazardous if:

(1) the occupation has been declared to be hazardous by an agency of the federal government; and

(2) the commission determines that the occupation is particularly hazardous for the employment of children.

(b) The commission by rule may restrict the employment of children 14 years of age or older in hazardous occupations.

(c) A person commits an offense if the person employs a child in violation of a rule adopted under this section.

(d) In addition to any occupation determined to be hazardous under Subsection (a), the employment of a child to sell items or services for or solicit donations for any person other than an exempt organization or a business owned or operated by a parent, conservator, guardian, or other person who has possession of the child under a court order is a hazardous occupation for purposes of this chapter if the child is:

(1) younger than 14 years of age; and

(2) unaccompanied by a parent, conservator, guardian, or other person who has possession of the child under a court order.

(e) For purposes of this section, "exempt organization" means:

(1) a charitable organization, as that term is defined under Section 84.003, Civil Practice and Remedies Code;

(2) an organization regulated under Title 15, Election Code; or

(3) a club, organization, or other group engaged in a fund-raising activity for the club, organization, or group if the activity is sponsored by a public or private primary or secondary school.

(f) Subsection (d) does not apply to a child younger than 14 years of age selling items or services as a self-employed person with the consent of a parent.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995,

74th Leg., ch. 501 (H.B. 1323), § 1, effective September 1, 1995.)

Sec. 51.0145. Use of Child for Sales and Solicitation.

(a) For purposes of this section:

(1) "Exempt organization" means:

(A) a charitable organization, as defined by Section 84.003, Civil Practice and Remedies Code;

(B) an organization regulated under Title 15, Election Code; or

(C) a club, organization, or other group engaged in a fund-raising activity for the club, organization, or group if the activity is sponsored by a public or private primary or secondary school.

(2) "Solicit" means an action of a person to:

(A) sell goods or services in a setting other than a retail establishment;

(B) request donations; or

(C) distribute items, information, or advertising.

(b) The employment of a child to solicit is a hazardous occupation for purposes of this chapter.

(c) A person may not employ a child to solicit unless the person:

(1) at least seven days before the date the child begins employment, obtains on a form approved by the commission the signed consent of a parent of the child or of a conservator, guardian, or other person who has possession of the child under a court order;

(2) provides to the individual who gives consent:

(A) a map of the route the child will follow during each solicitation trip; and

(B) the name of each individual who will be supervising each solicitation trip;

(3) provides at each location where children will be engaged to solicit at least one adult supervisor for every three children engaged in that solicitation trip; and

(4) limits each solicitation trip to:

(A) no later than 7 p.m. on a day when the child is legally required to attend school; and

(B) the hours between 10 a.m. and 7 p.m. on all other days.

(d) The commission may make additional requirements by rule for a person employing a child under this section to protect the safety, health, or well-being of the child.

(e) This section does not apply to an exempt organization or a business owned or operated by a parent, conservator, guardian, or other person who has possession of the child under a court order.

(f) A person commits an offense if the person employs a child in violation of this section or a rule adopted under this section.

(Enacted by Acts 1999, 76th Leg., ch. 648 (H.B. 160), § 1, effective September 1, 1999.)

Sec. 51.015. Operation of Motor Vehicle for Certain Commercial Purposes.

(a) An occupation that involves the operation of a motor vehicle by a child for a commercial purpose is not a hazardous occupation under this chapter if the child:

(1) has a driver's license under Chapter 521, Transportation Code;

(2) is not required to obtain a commercial driver's license under Chapter 522, Transportation Code, to perform the duties of the occupation;

(3) performs the duties of the occupation:

(A) under the direct supervision of the child's parent or an adult having custody of the child; and

(B) for a business owned or operated by the child's parent or guardian; and

(4) operates a vehicle that has no more than two axles and does not exceed a gross vehicle weight rating of 15,000 pounds.

(b) The commission shall adopt rules consistent with this section.

(Enacted by Acts 1995, 74th Leg., ch. 903 (H.B. 994), § 1, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.213, effective September 1, 1997.)

Sec. 51.016. Sexually Oriented Businesses.

(a) In this section, "sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

(b) A sexually oriented business may not employ an individual younger than 18 years of age.

(c) A sexually oriented business shall maintain at the business a record that contains a copy of a valid proof of identification of each employee or independent contractor working at the premises of the business.

(d) A proof of identification satisfies the requirements of Subsection (c) if the identification:

(1) contains a physical description and photograph consistent with the person's appearance;

(2) contains the date of birth of the person; and

(3) was issued by a government agency.

(e) The form of identification under Subsection (c) may include:

(1) a driver's license issued by this state or another state;

(2) a passport; or

(3) an identification card issued by this or another state or the federal government.

(f) A sexually oriented business shall maintain a record under this section for at least two years after the date the employee or independent contractor ends employment with or a contractual obligation to the business.

(g) The requirements of Subsections (c) and (f) do not apply with regard to an independent contractor who contracts with a sexually oriented business solely to perform repair, maintenance, or construction services at the business.

(h) The commission, the attorney general, or a local law enforcement agency may inspect a record maintained under this section if there is good reason to believe that an individual younger than 18 years of age is employed or has been employed by the sexually oriented business within the two years preceding the date of the inspection.

(i) A person commits an offense if the person:

(1) fails to maintain a record as required by this section; or

(2) knowingly or intentionally hinders an inspection authorized under Subsection (h).

(Enacted by Acts 2009, 81st Leg., ch. 489 (S.B. 707), § 1, effective September 1, 2009.)

SUBCHAPTER C
ADMINISTRATIVE PROVISIONS

Sec. 51.021. Inspection; Collection of Information.

(a) The commission, or a person designated by the commission, may, during working hours:

(1) inspect a place where there is good reason to believe that a child is employed or has been employed within the last two years; and

(2) collect information concerning the employment of a child who works or within the last two years has worked at that place.

(b) A person commits an offense if the person knowingly or intentionally hinders an inspection or the collection of information authorized by this section.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 1, effective September 1, 1995.)

Sec. 51.022. Certificate of Age.

(a) A child who is at least 14 years of age may apply to the commission for a certificate of age that states the date of birth of the child.

(b) The application must include documentary proof of age as required by the commission.

(c) After approval by the commission of the proof of age, the commission shall issue to the child a certificate of age.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.023. Rulemaking.

The commission may adopt rules necessary to promote the purpose of this chapter but may not adopt a rule permitting the employment of a child under 14 years of age unless expressly authorized by this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.024. Powers of Commission; Penalty.

(a) The commission may require reports, conduct investigations, and take other action it considers necessary to implement this chapter.

(b) In the discharge of the duties imposed by this chapter, a member of the commission or an authorized representative of the commission may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses who may be found within 100 miles of the relevant event and the production of books, papers, correspondence, memoranda, or other records considered necessary as evidence in the administration of this chapter. Notwithstanding Chapter 152 or 154, Local Government Code, or any other law of this state, the commission shall pay the fee of a sheriff or constable for serving a subpoena under this subsection from the administrative funds of the commission, and the comptroller shall issue a warrant for that fee as directed by the commission.

(c) In the case of contumacy or other refusal to obey a subpoena issued by a member of the commission or an authorized representative of the commission, a county court or district court within the jurisdiction of which the inquiry is conducted or the person guilty of contumacy or refusal to obey is found, resides, or transacts business has jurisdiction on application by the commission or its representative to issue to the person an order requiring the person to appear before a commissioner, the commission, or an authorized representative of the commission to produce evidence or give testimony regarding the matter under investigation. Failure to obey the court order may be punished by the court as contempt.

(d) A person commits an offense if the person, without just cause, fails or refuses to obey a commission subpoena to:

(1) attend and testify;

(2) answer any lawful inquiry; or

(3) produce books, papers, correspondence, memoranda, or other records.

(e) An offense under Subsection (d) is punishable by a fine of not less than $200, by confinement for not more than 60 days, or by both fine and confinement. Each day of violation constitutes a separate offense.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 2, effective September 1, 1995.)

SUBCHAPTER D
PENALTY AND DEFENSE

Sec. 51.031. Offense; Penalty.

(a) Except as provided by Subsection (b), an offense under this chapter is a Class B misdemeanor.

(b) An offense under Section 51.014(d) or Section 51.0145 is a Class A misdemeanor.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 9.10(a), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 501 (H.B. 1323), § 2, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 648 (H.B. 160), § 2, effective September 1, 1999.)

Sec. 51.032. Defense to Prosecution.

It is a defense to prosecution of a person employing a child who does not meet the minimum age requirement for a type of employment that the person relied in good faith on an apparently valid certificate of age presented by the child that showed the child to meet the age requirement for that type of employment.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 51.033. Administrative Penalty.

(a) If the commission determines that a person who employs a child has violated this chapter or a rule adopted under this chapter, the commission may assess an administrative penalty against that person as provided by this section.

(b) The penalty for a violation may be in an amount not to exceed $10,000.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(d) If, after examination of a possible violation and the facts relating to that possible violation, the commission determines that a violation has occurred, the commission shall issue a preliminary determination that states the facts on which the determination is based, the fact that an administrative penalty is to be imposed, and the amount of the penalty.

(e) Not later than the 14th day after the date the report is issued, the commission shall give written notice of the preliminary determination to the person charged with the violation. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Not later than the 21st day after the date on which the notice is mailed, the person may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person requests a hearing, the commission shall set a hearing and give notice of the hearing to the person not later than the 21st day after the date a request for the hearing is received by the commission. As soon as practicable, but not later than the 45th day after the date the hearing notice is mailed, the commission shall conduct the hearing. The hearing is subject to the commission rules and hearings procedures used by the commission to determine a claim under Subtitle A, Title 4, but is not subject to Chapter 2001, Government Code. The hearings examiner shall issue a decision.

(h) If it is determined after the hearing that a penalty may be imposed, the commission shall enter a written order to that effect. The commission shall notify the person in writing of the decision and the amount of the penalty imposed by mailing the notice to the person at the person's last known address as reflected by commission records. The order of the commission becomes final 14 days after the date of mailing, unless, within 14 days after the date of the mailing, the hearing is reopened by commission order or the person files a written motion for rehearing.

(i) The notice of the commission's order must include a statement of the right of the person to judicial review of the order.

(j) Not later than the 30th day after the date the commission's final order is mailed, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court that is for the amount of the penalty and that is effective until all judicial review of the commission's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the commission by certified mail.

(*l*) If the commission receives a copy of an affidavit under Subsection (k)(2), the commission may file with the court not later than the fifth day after the date the copy is received a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commission may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the commission:

(1) is instituted by bringing an action as provided by Subchapter E, Chapter 212; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that a penalty is not owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) The attorney general may bring a suit in a district court in Travis County to enforce a final order from which an appeal under this chapter has not been taken. In the suit and on the request of the attorney general, the court may order payment of attorney's fees and other costs of court.

(r) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 3, effective September 1, 1995.)

Sec. 51.034. Injunction: Attorney General's Action.

The attorney general may seek injunctive relief in district court against an employer who repeatedly violates the requirements established by this chapter relating to the employment of children.

(Enacted by Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 9.11(a), effective September 1, 1995.)

SUBCHAPTER E
COLLECTION OF PENALTY

Sec. 51.041. Definition.

In this subchapter, "asset" means:

(1) a credit, bank, or savings account or deposit; or

(2) any other intangible or personal property.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 4, effective September 1, 1995.)

Sec. 51.042. Notice of Delinquency.

(a) If, under a final order, a person is determined to be delinquent in the payment of any amount, including penalties, interest, or other amounts due under this chapter, the commission may notify personally or by mail any other person who:

(1) possesses or controls an asset belonging to the delinquent person; or

(2) owes a debt to the delinquent person.

(b) A notice under this section to a state officer, department, or agency must be given before the officer, department, or agency presents to the comptroller the claim of the delinquent person.

(c) A notice under this section may be given at any time after the amount due under this chapter becomes delinquent. The notice must state the amount of wages, penalties, interest, or other amounts due, and any additional amount that will accrue by operation of law in a period not to exceed 30 days after the date on which the notice is given and, in the case of a credit, bank, or savings account or deposit, is effective only up to that amount.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 4, effective September 1, 1995.)

Sec. 51.043. Duties of Notice Recipient.

(a) On receipt of a notice under Section 51.042, the person receiving the notice:

(1) shall advise the commission not later than the 20th day after the date on which the notice is received of each asset belonging to the delinquent person that is possessed or controlled by the person receiving the notice and of each debt owed by the person receiving the notice to the delinquent person; and

(2) unless the commission consents to an earlier disposition, may not transfer or dispose of the asset or debt possessed, controlled, or owed by the person receiving the notice on the date the person received the notice during the 60-day period after the date of receipt of the notice.

(b) A notice under Section 51.042 that attempts to prohibit the transfer or disposition of an asset possessed or controlled by a bank is effective if it is delivered or mailed to the principal or any branch office of the bank, including the office of the bank at which the deposit is carried or the credit or property is held.

(c) A person who receives a notice under this subchapter and who transfers or disposes of an asset or debt in a manner that violates Subsection (a)(2) is liable to the commission for the amount of the indebtedness of the delinquent person with respect to whose obligation the notice was given, to the extent of the value of the affected asset or debt.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 4, effective September 1, 1995.)

Sec. 51.044. Levy.

(a) At any time during the 60-day period provided by Section 51.043(a)(2), the commission may levy on the asset or debt by delivery of a notice of levy.

(b) On receipt of the levy notice, the person possessing the asset or debt shall transfer the asset to the commission or pay to the commission the amount owed to the delinquent person.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 4, effective September 1, 1995.)

Sec. 51.045. Notice Effect.

A notice delivered under this subchapter is effective:

(1) at the time of delivery against all property, rights to property, credits, and debts involving the delinquent person that are not, as of the date of the notice, subject to a preexisting lien, attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits, or debts involving the delinquent person that come into the possession or control of the person served with the notice during the 60-day period provided by Section 51.043(a)(2).

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 4, effective September 1, 1995.)

Sec. 51.046. Discharge of Liability.

A person acting in accordance with the terms of a notice issued by the commission under this subchapter is discharged from any obligation or liability to the delinquent person with respect to the affected property, rights to property, credits, and debts of the person affected by compliance with the notice of freeze or levy.

(Enacted by Acts 1995, 74th Leg., ch. 905 (H.B. 1028), § 4, effective September 1, 1995.)

TITLE 4
EMPLOYMENT SERVICES AND UNEMPLOYMENT

SUBTITLE A
TEXAS UNEMPLOYMENT COMPENSATION ACT

CHAPTER 207
BENEFITS

Subchapter A. Payment of Benefits

Subchapter B. Benefit Eligibility

Subchapter C. Exceptions to and Disqualification for Benefits

Subchapter D. Protection of Benefit Rights

Subchapter E. Child Support Obligations

Subchapter F. Tax Withholding

Subchapter G. Withholding from Unemployment Benefits for Uncollected Overissuances of Food Stamps

SUBCHAPTER A
PAYMENT OF BENEFITS

Sec. 207.001. Payment of Benefits.

Benefits are paid through the commission in accordance with rules adopted by the commission and are due and payable under this subtitle only to the extent provided by this subtitle.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.002. Benefits for Total Unemployment.

(a) An eligible individual who is totally unemployed in a benefit period is entitled to benefits for the benefit period at the rate of 1/25 of the wages received by the individual from employment by employers during that quarter in the individual's base period in which wages were highest. For purposes of this subsection, the wages received by the individual from employment by employers during the individual's base period include wages ordered to be paid to the individual by a final order of the commission under Chapter 61 that:

(1) were due to be paid to the individual by an employer during the individual's base period; and

(2) will be credited to the date or dates on which the payment of those wages was due.

(a-1) The commission by rule shall determine the method of crediting wages to a particular quarter for purposes of Subsection (a).

(a-2) The rate of benefits paid under this section may not be more than the maximum weekly benefit amount computed under Subsection (b) or less than the minimum weekly benefit amount computed under Subsection (b) for each benefit period.

(b) The maximum weekly benefit amount is 47.6 percent of the average weekly wage in covered employment in this state. The minimum weekly benefit amount is 7.6 percent of the average weekly wage in covered employment in this state.

(c) The commission shall determine the average weekly wage in covered employment and compute the maximum and minimum weekly benefit amount not later than October 1 of each year based on the annual average weekly wage for the preceding year. If a benefit amount computed under this subsection includes cents, the commission shall adjust the benefit amount as follows:

(1) if the computed benefit amount includes at least one cent but not more than 49 cents, the commission shall round the benefit down to the nearest multiple of $1; and

(2) if the computed benefit amount includes at least 50 cents but not more than 99 cents, the commission shall round the benefit amount up to the nearest multiple of $1.

(c-1) An increase in the maximum weekly benefit amount may not exceed $14 in any year. An increase in the minimum weekly benefit amount may not exceed $1 in any year.

(d) An increase in maximum and minimum benefit amounts under this section takes effect on October 1.

(e) The maximum benefit amount payable to an individual for a benefit period under this section on the effective date of a valid claim is the maximum benefit amount payable to that individual until the individual establishes a new benefit year.

(f) In this section, "wages" has the meaning assigned in Subchapter F, Chapter 201, except that the limitation of wages provided in Section 201.082(1) does not apply.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 803 (H.B. 567), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1104 (H.B. 2273), § 1, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1052 (H.B. 2120), § 1, effective June 15, 2007.)

Sec. 207.003. Benefits for Partial Unemployment.

(a) An eligible individual who is partially unemployed in a benefit period is entitled to partial benefits for that benefit period.

(b) The amount of a partial benefit is computed by:

(1) adding the individual's benefit amount and the greater of $5 or 25 percent of the benefit amount; and

(2) subtracting the amount of the wages earned by the individual during the benefit period from the amount computed under Subdivision (1).

(c) In this section, "wages" has the meaning assigned in Subchapter F, Chapter 201, except that the limitation of wages provided in Section 201.082(1) does not apply.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.004. Benefit Wage Credits.

(a) The commission shall credit as benefit wage credits during an individual's base period:

(1) wages the individual received for employment from an employer during the individual's base period; and

(2) wages ordered to be paid by a final order issued by the commission under Chapter 61 that:

(A) were due to be paid by an employer during the individual's base period; and

(B) will be credited to the date or dates on which the payment of those wages was due.

(a-1) The commission by rule shall determine the method of crediting wages to an individual's base period for purposes of Subsection (a).

(b) Wages used to qualify an individual for regular benefits under this subtitle or under any other unemployment compensation law may not be used again to qualify the individual for regular benefits.

(c) If an employer fails to report, when requested by the commission, wages that were paid to an individual during a base period, the commission may determine the amount of benefit wage credits for the individual for the base period from the best information obtained by the commission.

(d) In this section:

(1) "Benefit wage credits" means those wages used to determine an individual's right to benefits.

(2) "Wages" has the meaning assigned in Subchapter F, Chapter 201, except that the limitation of wages provided in Section 201.082(1) does not apply.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am Acts 2007, 80th Leg., ch. 1052 (H.B. 2120), § 2, effective June 15, 2007.)

Sec. 207.005. Maximum Amount of Benefits.

The maximum amount of benefits payable to an eligible individual during a benefit year may not exceed the lesser of:

(1) 26 times the individual's benefit amount; or

(2) 27 percent of the individual's benefit wage credits.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.006. Adjustment of Benefits.

If a benefit rate or benefit payable computed under this chapter is not a multiple of $1, the benefit rate or benefit payable is increased to the next multiple of $1.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.007. Fees Limitation; Legal Representation; Criminal Offense; Penalty.

(a) An individual claiming benefits under this subtitle may not be charged a fee in a proceeding under this subtitle by:

(1) the commission or a representative of the commission; or

(2) a court or an officer of a court.

(b) An individual claiming benefits in a proceeding before the commission or a court may be represented by counsel or another authorized agent. Counsel or an agent representing an individual under this subtitle may charge and collect a fee for the counsel's or agent's services.

(c) A person who violates this section commits an offense. An offense under this section is punishable by:

(1) a fine of not less than $50 and not more than $500;

(2) imprisonment for not more than six months; or

(3) both a fine and imprisonment.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 1104 (H.B. 2273), § 2, effective September 1, 2005.)

Sec. 207.008. Suitable Work.

(a) In determining whether work is suitable for an individual, the commission shall consider:

(1) the degree of risk involved to the individual's health, safety, and morals at the place of performance of the work;

(2) the individual's physical fitness and previous training;

(3) the individual's experience and previous earnings;

(4) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(5) the distance of the work from the individual's residence.

(b) Notwithstanding any other provision of this subtitle, work is not suitable and benefits may not be denied under this subtitle to an otherwise eligible individual for refusal to accept new work if:

(1) the position offered is vacant directly because of a strike, lockout, or other labor dispute;

(2) the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(3) as a condition of being employed, the individual is required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.009. Payment of Benefits by Indian Tribe.

Benefits based on service in the employ of an Indian tribe, as described by Section 201.048, are payable in the same amount, on the same terms, and subject to the same conditions as benefits paid on the basis of other service under this subtitle.

(Enacted by Acts 2001, 77th Leg., ch. 518 (H.B. 2029), § 8, effective June 11, 2001.)

SUBCHAPTER B
BENEFIT ELIGIBILITY

Sec. 207.021. Benefit Eligibility Conditions.

(a) Except as provided by Chapter 215, an unemployed individual is eligible to receive benefits for a benefit period if the individual:

(1) has registered for work at an employment office and has continued to report to the employment office as required by rules adopted by the commission;

(2) has made a claim for benefits under Section 208.001;

(3) is able to work;

(4) is available for work;

(5) is actively seeking work in accordance with rules adopted by the commission;

(6) for the individual's base period, has benefit wage credits:

(A) in at least two calendar quarters; and

(B) in an amount not less than 37 times the individual's benefit amount;

(7) after the beginning date of the individual's most recent prior benefit year, if applicable, earned wages in an amount equal to not less than six times the individual's benefit amount;

(8) has been totally or partially unemployed for a waiting period of at least seven consecutive days; and

(9) participates in reemployment services, such as a job search assistance service, if the individual has been determined, according to a profiling system established by the commission, to be likely to exhaust eligibility for regular benefits and to need those services to obtain new employment, unless:

(A) the individual has completed participation in such a service; or

(B) there is reasonable cause, as determined by the commission, for the individual's failure to participate in those services.

(b) A week may not be counted as a waiting period week for the purposes of this section:

(1) unless the individual has registered for work at an employment office in accordance with Subsection (a)(1);

(2) unless it is after the filing of an initial claim;

(3) unless the individual reports at an office of the commission and certifies that the individual has met the waiting period requirements;

(4) if benefits have been paid or are payable with respect to the week;

(5) if the individual does not meet the eligibility requirements of Subsections (a)(3) and (a)(4); and

(6) if the individual has been disqualified for benefits for the seven-day period under Section 207.044, 207.045, 207.047, or 207.048.

(b-1) An individual for whom suitable work is available only in an occupation designated by United States Department of Labor regulation as an occupation that regularly conducts preemployment drug testing is available for work for purposes of Subsection (a)(4) only if the individual complies with the applicable requirements of the drug screening and testing program administered by the commission under Section 207.026. The commission shall adopt rules for determining the type of work that is suitable for an individual for purposes of this subsection.

(c) Notwithstanding any other provision of this section, an individual who has been paid benefits in the individual's current benefit year equal to or exceeding three times the individual's benefit amount is eligible to receive benefits on the individual's waiting period claim in accordance with this subtitle.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 759 (H.B. 1027), § 1, effective September 1, 1995; am. Acts 2013, 83rd Leg., ch. 107 (S.B. 920), § 1, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 1141 (S.B. 21), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1141 (S.B. 21), § 4 provides: "The changes in law made by this Act apply only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after February 1, 2014."

Sec. 207.0211. Eligibility of Certain Disabled Persons.

A permanently disabled individual is considered to be able to work under Section 207.021(a)(3) and available for work for purposes of Section 207.021(a)(4) if, as a result of the individual's disability, the individual:

(1) is unable to work full-time;

(2) has worked part-time during a substantial part of the individual's base period;

(3) is seeking part-time work consistent with the limitations imposed by the individual's disability; and

(4) is receiving disability insurance benefits under 42 U.S.C. Section 423.

(Enacted by Acts 2005, 79th Leg., ch. 493 (H.B. 481), § 1, effective June 17, 2005.)

Sec. 207.0212. Eligibility of Certain Persons Unemployed Because of Disaster.

(a) In this section, "disaster unemployment assistance benefits" means benefits authorized under Section 410, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5177), and rules adopted under that section.

(b) Notwithstanding Section 207.021, the governor, by executive order, may suspend the waiting period requirement imposed under Section 207.021(a)(8) to authorize an individual to receive benefits for that waiting period if the individual:

(1) is unemployed as a direct result of a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(2) is otherwise eligible for unemployment compensation benefits under this subtitle; and

(3) is not receiving disaster unemployment assistance benefits for the period included in that waiting period.

(Enacted by Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 1.19, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 107 (S.B. 920), § 2, effective May 18, 2013.)

Sec. 207.022. Commission-Approved Training.

(a) An individual may not be denied benefits

because the individual is in training with the approval of the commission.

(b) An individual may not be denied benefits for a benefit period in which the individual is in training with the approval of the commission because of the provisions of Section 207.021 relating to the individual's:

(1) availability for work;

(2) active search for work; or

(3) refusal to apply for or refusal to accept suitable work.

(c) Approval of training must be obtained as required by rules adopted by the commission.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.023. Training Under the Trade Act of 1974.

(a) This section applies only to training approved under Section 236(a)(1) of the Trade Act of 1974 (19 U.S.C. Section 2296(a)(1)).

(b) An otherwise eligible individual may not be denied benefits for a week:

(1) that the individual was in training;

(2) that the individual left work to enter training if the work the individual left was not suitable employment; or

(3) because of the application to the week in training of a provision of this subtitle or a federal unemployment compensation law relating to the individual's:

(A) availability for work;

(B) active search for work; or

(C) refusal to accept work.

(c) For the purposes of Subsection (b), "suitable employment" means work for an individual that:

(1) is of a skill level substantially equal to or higher than that of the individual's past adversely affected employment, as that term is used by the Trade Act of 1974 (19 U.S.C. Section 2101 et seq.); and

(2) pays wages that are not less than 80 percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974 (19 U.S.C. Section 2101 et seq.).

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.024. Claim Filed or Residence in Another State or Country.

An individual's benefits may not be denied or reduced solely because at the time the individual filed the claim for unemployment compensation the individual:

(1) files a claim in another state or a contiguous country with which the United States has an agreement with respect to unemployment compensation; or

(2) resides in another state or contiguous country with which the United States has an agreement with respect to unemployment compensation.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.025. Pregnancy or Termination of Pregnancy.

Benefits may not be denied to an individual solely because of pregnancy or termination of pregnancy.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.026. Drug Screening or Testing As Condition of Benefit Eligibility for Certain Applicants and Recipients.

(a) The commission by rule shall adopt a drug screening and testing program as part of the requirements for the receipt of benefits under this subtitle by an individual to whom Section 207.021(b-1) applies. The program must:

(1) comply with the drug testing requirements of 49 C.F.R. Part 382 or other similar national requirements for drug testing programs recognized by the commission; and

(2) be designed to protect the rights of benefit applicants and recipients.

(b) Under the program, each individual to whom Section 207.021(b-1) applies who files an initial claim must submit to and pass a drug screening assessment developed and administered by or on behalf of the commission for purposes of this subsection as a prerequisite to receiving benefits under this subtitle. The assessment tool used under this subsection must consist of a written questionnaire to be completed by the individual applying for benefits and must be designed to accurately determine the reasonable likelihood that an individual is using a substance that is subject to regulation under Chapter 481, Health and Safety Code. An individual whose drug screening assessment indicates a reasonable likelihood of use by the individual of a substance subject to regulation under that chapter must submit to and pass a drug test administered by or on behalf of the commission to establish the individual's eligibility for benefits under this subtitle. An individual who fails a drug test required under this subsection under a final determination or decision under this section is not eligible to receive benefits under this subtitle until the individual has passed a subsequent drug test administered by or on behalf of the commission not earlier than four weeks

after the date the individual submitted to the failed drug test.

(c) Notwithstanding Subsection (b), an individual is not ineligible to receive benefits based on the individual's failure to pass a drug test if, on the basis of evidence presented by the individual, the commission determines that, subject to Section 207.021(a)(4):

(1) the individual is participating in a treatment program for drug abuse;

(2) the individual enrolls in and attends a treatment program for drug abuse not later than the seventh day after the date initial notice of the failed drug test is sent to the individual; or

(3) the failure to pass the test is caused by the use of a substance that was prescribed by a health care practitioner as medically necessary for the individual.

(d) The commission shall prescribe procedures for providing initial notice to an individual who fails a drug test under Subsection (b), for an appeal under Chapter 212, and for the retaking of a failed drug test by an individual under this section. The procedures must provide:

(1) for prompt initial notice by mail to an individual who fails a drug test under Subsection (b) regarding:

(A) the fact of the individual's failure of the drug test;

(B) the manner in which the individual may notify the commission that the individual has enrolled in and is attending a treatment program for drug abuse;

(C) the manner in which the individual may appeal and retake the failed drug test; and

(D) common potential causes of a false positive test result;

(2) for privacy with regard to the individual's drug test result until not later than the 14th day after the date the initial notice of the failed drug test was mailed to the individual during which time the individual may appeal and retake the failed drug test; and

(3) that a determination or decision that an individual has failed a drug test under this section becomes final on:

(A) the 15th day after the date the initial notice of the failed drug test was mailed to the individual if the individual does not appeal and retake the individual's failed drug test as provided by this section; or

(B) the date that a retest conducted pursuant to an appeal by the individual as provided by this section confirms the positive drug test result.

(e) The commission shall administer the program under this section using existing administrative funds and any funds appropriated to the commission for the purposes of this section.

(Enacted by Acts 2013, 83rd Leg., ch. 1141 (S.B. 21), § 3, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1141 (S.B. 21), § 4 provides: "The changes in law made by this Act apply only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after February 1, 2014."

SUBCHAPTER C EXCEPTIONS TO AND DISQUALIFICATION FOR BENEFITS

Sec. 207.041. Services in Educational Institutions.

(a) Benefits are not payable to an individual based on services performed in an instructional, research, or principal administrative capacity for an educational institution for a week beginning during the period between two successive academic years or terms or under an agreement providing for a similar period between two regular but not successive terms if:

(1) the individual performed the services in the first of the academic years or terms; and

(2) there is a contract or reasonable assurance that the individual will perform services in that capacity for any educational institution in the second of the academic years or terms.

(b) Benefits are not payable to an individual based on services performed for an educational institution in a capacity other than a capacity described by Subsection (a) for a week that begins during a period between two successive academic years or terms if:

(1) the individual performed the services in the first of the academic years or terms; and

(2) there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms.

(c) Notwithstanding Subsection (b), if benefits are denied to an individual for any week under Subsection (b) and the individual is not offered an opportunity to perform services for the educational institution for the second of the academic years or terms, the individual is entitled to a retroactive payment of the benefits for each week that:

(1) the individual filed a timely claim for benefits; and

(2) the benefits were denied solely because of Subsection (b).

(d) Benefits are not payable to an individual based on services performed for an educational in-

stitution for a week that begins during an established and customary vacation period or holiday recess if:

(1) the individual performed the services in the period immediately before the vacation period or holiday recess; and

(2) there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) Benefits are not payable as provided under this section to an individual based on services performed in an educational institution if the individual performed the services while employed by an educational service agency. For the purposes of this subsection, "educational service agency" means a governmental agency or other governmental entity that is established and operated exclusively to provide services to one or more educational institutions.
(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.042. Athletes.

Benefits are not payable to an individual based on services substantially all of which consist of participating in a sport or athletic event or training or preparing to participate in a sport or athletic event for a week that begins during the period between two successive sport seasons or similar periods if:

(1) the individual performed the services in the first of the seasons or periods; and

(2) there is a reasonable assurance that the individual will perform the services in the later of the seasons or periods.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.043. Aliens.

(a) Benefits are not payable based on services performed by an alien unless the alien:

(1) is an individual who was lawfully admitted for permanent residence at the time the services were performed;

(2) was lawfully present for purposes of performing the services; or

(3) was permanently residing in the United States under color of law at the time the services were performed, including being lawfully present in the United States as a result of the application of Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. Section 1182(d)(5)).

(b) Information required of an individual applying for benefits to determine whether benefits are payable to the individual because of the individual's alien status shall be uniformly required from all applicants for benefits.

(c) A determination that benefits are not payable to an individual whose application for the benefits would otherwise be approved except for the individual's alien status must be made from a preponderance of the evidence.

(d) A modification of Section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. Section 3304(a)(14)) that specifies other conditions or another effective date for the denial of benefits based on services performed by aliens that must be implemented under state law as a condition for a full tax credit against the tax imposed by the Federal Unemployment Tax Act (26 U.S.C. Section 3301 et seq.) is applicable under this section.
(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.044. Discharge for Misconduct.

(a) An individual is disqualified for benefits if the individual was discharged for misconduct connected with the individual's last work.

(b) Disqualification under this section continues until the individual has returned to employment and:

(1) worked for six weeks; or

(2) earned wages equal to six times the individual's benefit amount.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.045. Voluntarily Leaving Work.

(a) An individual is disqualified for benefits if the individual left the individual's last work voluntarily without good cause connected with the individual's work.

(b) Except as provided by Subsection (c), a disqualification for benefits under this section continues until the individual has returned to employment and:

(1) worked for six weeks; or

(2) earned wages equal to six times the individual's benefit amount.

(c) Disqualification for benefits under this section for an individual who left work to move with the individual's spouse from the area where the individual worked continues for not less than six benefit periods and not more than 25 benefit periods following the filing of a valid claim as determined by the commission according to the circumstances of the case.

(d) Notwithstanding any other provision of this section, an individual who is available to work may not be disqualified for benefits because the individual left work because of:

(1) a medically verified illness of the individual or the individual's minor child;

(2) injury;

(3) disability;

(4) pregnancy;

(5) an involuntary separation as described by Section 207.046; or

(6) a move from the area of the individual's employment that:

(A) was made with the individual's spouse who is a member of the armed forces of the United States; and

(B) resulted from the spouse's permanent change of station of longer than 120 days or a tour of duty of longer than one year.

(e) For the purposes of Subsection (d), a medically verified illness of a minor child prevents disqualification only if reasonable alternative care was not available to the child and the employer refused to allow the individual a reasonable amount of time off during the illness.

(f) Military personnel who do not reenlist have not left work voluntarily without good cause connected with work.

(g) An individual who is partially unemployed and who resigns that employment to accept other employment that the individual reasonably believes will increase the individual's weekly wage is not disqualified for benefits under this section.

(g-1) An individual who voluntarily leaves the individual's last work is not disqualified for benefits under this section if:

(1) at the time the last work began, the individual was receiving benefits under this subtitle;

(2) the work did not constitute suitable work for the individual, as determined under Section 207.008; and

(3) the individual was employed at the last work for less than four weeks.

(h) A temporary employee of a temporary help firm is considered to have left the employee's last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee is not considered to have left work voluntarily without good cause connected with the work under this subsection unless the temporary employee has been advised:

(1) that the temporary employee is obligated to contact the temporary help firm on completion of assignments; and

(2) that unemployment benefits may be denied if the temporary employee fails to do so.

(i) A covered employee of a professional employer organization is considered to have left the covered employee's last work without good cause if the professional employer organization demonstrates that:

(1) at the time the employee's assignment to a client concluded, the professional employer organization, or the client acting on the professional employer organization's behalf, gave written notice and written instructions to the covered employee to contact the professional employer organization for a new assignment; and

(2) the covered employee did not contact the professional employer organization regarding reassignment or continued employment; provided that the covered employee may show that good cause existed for the covered employee's failure to contact the professional employer organization.

(j) An individual is not disqualified for benefits under this section if

(1) the individual left the individual's last work to attend commission-approved training under Section 207.022; and

(2) the individual's last work did not constitute suitable work for the individual, as determined under Section 207.008.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 9.33(a), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1379 (H.B. 1465), § 21, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 817 (S.B. 280), § 7A.03, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 39 (S.B. 1342), § 2, effective May 9, 2005; am. Acts 2005, 79th Leg., ch. 987 (H.B. 1939), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 117 (S.B. 1286), § 19, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 310 (H.B. 1580), § 2, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1398 (H.B. 2034), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 117 (S.B. 1286), § 29(b) provides: "The changes in law made by this Act apply only to a professional employer services agreement entered into on or after the effective date of this Act [September 1, 2013]. An agreement entered into before the effective date of this Act is governed by the law in effect on the date the agreement is entered into, and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 310 (H.B. 1580), § 3 and Acts 2013, 83rd Leg., ch. 1398 (H.B. 2034), § 4 provide: "The changes in law made by this Act apply only to a claim for unemployment compensation benefits filed with the Texas Workforce Commission on or after the effective date of this Act [September 1, 2013]. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose."

Sec. 207.046. Involuntary Separation.

(a) An individual is not disqualified for benefits under this subchapter if:

(1) the work-related reason for the individual's separation from employment was urgent, compelling, and necessary so as to make the separation involuntary;

(2) the individual leaves the workplace to protect the individual from family violence or stalking or the individual or a member of the individual's immediate family from violence related to a sexual assault as evidenced by:

(A) an active or recently issued protective order documenting sexual assault of the individual or a member of the individual's immediate family or family violence against, or the stalking of, the individual or the potential for family violence against, or the stalking of, the individual;

(B) a police record documenting sexual assault of the individual or a member of the individual's immediate family or family violence against, or the stalking of, the individual;

(C) a physician's statement or other medical documentation that describes the sexual assault of the individual or a member of the individual's immediate family or family violence against the individual that:

(i) is recorded in any form or medium that identifies the individual or member of the individual's immediate family, as applicable, as the patient; and

(ii) relates to the history, diagnosis, treatment, or prognosis of the patient; or

(D) written documentation from a family violence center or rape crisis center that describes the sexual assault of the individual or a member of the individual's immediate family or family violence against the individual; or

(3) the individual leaves the workplace to care for the individual's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available.

(b) Except as provided by law, evidence regarding an employee described by Subsection (a)(2) may not be disclosed to any person without the consent of the employee.

(c) In this section:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Stalking" means conduct described by Section 42.072, Penal Code.

(3) "Immediate family" means an individual's parent, spouse, or child under the age of 18.

(4) "Sexual assault" means conduct described by Section 22.011 or 22.021, Penal Code.

(5) "Family violence center" has the meaning assigned by Section 51.002, Human Resources Code.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 817 (S.B. 280), § 7A.04, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 1180 (H.B. 550), § 3, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 841 (H.B. 26), §§ 3, 4, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 841 (H.B. 26), § 5 provides: "The changes in law made by this Act apply only to eligibility for unemployment compensation benefits based on an unemployment compensation claim that is filed with the Texas Workforce Commission on or after the effective date of this Act [June 14, 2013]. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose."

Sec. 207.047. Failure to Apply for, Accept, or Return to Work.

(a) An individual is disqualified for benefits if during the individual's current benefit year, the individual failed, without good cause, to:

(1) apply for available, suitable work when directed to do so by the commission;

(2) accept suitable work offered to the individual; or

(3) return to the individual's customary self-employment, if any, when directed to do so by the commission.

(b) Disqualification for benefits under this section continues until the individual has returned to employment and:

(1) worked for six weeks; or

(2) earned wages equal to six times the individual's benefit amount.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.048. Labor Disputes.

(a) An individual is disqualified for benefits for a benefit period in which the individual's total or partial unemployment is caused by:

(1) the individual's stoppage of work because of a labor dispute at the factory, establishment, or other premises where the individual is or was last employed; or

(2) a labor dispute at another place that:

(A) is owned or operated by the same employing unit that owns or operates the premises where the individual is or was last employed; and

(B) supplies material or services necessary to the continued and usual operation of the premises where the individual is or was last employed.

(b) Disqualification for benefits under this section does not apply to an individual who shows to the satisfaction of the commission that the individual:

(1) is not participating in, financing, or directly interested in the labor dispute; and

(2) does not belong to a grade or class of workers any members of which were employed at the premises of the labor dispute immediately before the beginning of the labor dispute and any of whom are participating in, financing, or directly interested in the dispute.

(c) For the purposes of Subsection (b)(1), failure or refusal to cross a picket line or refusal for any reason during the continuance of the labor dispute to accept and perform an individual's available and customary work at the factory, establishment, or other premises where the individual is or was last employed constitutes participation and interest in the labor dispute.

(d) An individual may not be disqualified for benefits under Subsection (b)(2) if the individual shows that the individual:

(1) is not, and at the time of the labor dispute, was not:

(A) a member of a labor organization that is the same as, represented by, or directly affiliated, acting in concert, or in sympathy with the labor organization involved in the labor dispute at the premises of the labor dispute; or

(B) acting in concert or in sympathy with the labor organization involved in the labor dispute at the premises of the labor dispute; and

(2) has made an unconditional offer to return to work at the premises where the individual is or was last employed.

(e) If separate branches of work that are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department is a separate factory, establishment, or other premises.

(f) For the purposes of this section, "premises" includes a vessel.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.049. Receipt of Remuneration.

(a) An individual is disqualified for benefits for a benefit period for which the individual is receiving or has received remuneration in the form of:

(1) wages in lieu of notice;

(2) severance pay; or

(3) compensation under a state worker's compensation law or a similar law of the United States for:

(A) temporary partial disability;

(B) temporary total disability; or

(C) total and permanent disability.

(b) In this section, "severance pay" means dismissal or separation income paid on termination of employment in addition to the employee's usual earnings from the employer at the time of termination. The term does not include any remuneration received by an employee under:

(1) a release of claims or settlement agreement entered into between the employee and the employer:

(A) based on an alleged violation of the Civil Rights Act of 1991 (Pub. L. No. 102-166); or

(B) pursuant to a claim or cause of action filed in connection with the employment relationship; or

(2) a written contract, including a collective bargaining agreement, negotiated with the employer before the date of separation from employment of the employee.

(c) The commission may adopt rules as necessary to administer this section.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 906 (H.B. 1086), § 1, effective June 16, 1995; am. Acts 2011, 82nd Leg., ch. 212 (H.B. 14), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 212 (H.B. 14), § 2 provides: "The change in law made by this Act applies only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after the effective date of this Act [September 1, 2011]. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose."

Sec. 207.050. Receipt of Pension or Annuity.

(a) Except as provided by Subsection (b), an individual is disqualified for benefits for a benefit period for which the individual is receiving or has received a governmental or other pension, retirement or retired pay, an annuity, or any other similar periodic payment based on the previous work of the individual and reasonably attributable to the benefit period.

(b) If a periodic payment described by Subsection (a) is received by an individual under the federal Social Security Act, the commission shall consider the individual's contribution and may not reduce the weekly benefit amount.

(c) Notwithstanding Subsection (a), if the remuneration received by an individual is less than the benefits that the individual would otherwise be eligible to receive, the individual is entitled to receive benefits for the benefit period that are reduced by the amount of the remuneration, adjusted as provided by Section 207.006.

(d) This section is enacted because Section 3304(a)(15) of the Federal Unemployment Tax Act (26 U.S.C. Section 3304(a)(15)) requires that this

provision be enacted in state law as of January 1, 1978, as a condition for full tax credit against the tax imposed by that Act. If Section 3304(a)(15) of the Federal Unemployment Tax Act (26 U.S.C. Section 3304(a)(15)) is amended to modify these federal requirements, the modified requirements are applicable under this section to the extent required for full tax credit rather than this section.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 906 (H.B. 1086), § 2, effective June 16, 1995.)

Sec. 207.051. Sale of Business.

(a) An individual is disqualified for benefits if the individual left the individual's last work because of the sale of:

(1) a corporation and the individual was:

(A) an officer of the corporation;

(B) a majority or controlling shareholder in the corporation; and

(C) involved in the sale of the corporation;

(2) a limited or general partnership and the individual was a limited or general partner who was involved in the sale of the partnership; or

(3) a sole proprietorship and the individual was the proprietor who sold the business.

(b) The disqualification under this section continues until the individual has returned to employment and:

(1) worked for six weeks; or

(2) earned wages equal to six times the individual's benefit amount.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 93 (H.B. 565), § 2, effective September 1, 1997.)

Sec. 207.052. Leaving Work to Attend Educational Institution [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 1398 (H.B. 2034), § 3, effective September 1, 2013.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1398 (H.B. 2034), § 4 provides: "The changes in law made by this Act apply only to a claim for unemployment compensation benefits filed with the Texas Workforce Commission on or after the effective date of this Act [September 1, 2013]. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose."

Sec. 207.053. Refusal to Treat Communicable Disease.

(a) An individual is disqualified for benefits if the individual:

(1) left the individual's last work voluntarily rather than provide services included within the course and scope of the individual's employment to an individual infected with a communicable disease; or

(2) was discharged from the individual's last work because the individual refused to provide services included within the course and scope of the individual's employment to an individual infected with a communicable disease.

(b) An individual is not disqualified under this section unless the person for whom the individual last worked made available to the individual the facilities, equipment, training, and supplies necessary to permit the individual to take reasonable precautions to preclude the infection of the individual with the communicable disease.

(c) Disqualification for benefits under this section continues until the individual has returned to employment and:

(1) worked for six weeks; or

(2) earned wages equal to six times the individual's weekly benefit amount.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

SUBCHAPTER D
PROTECTION OF BENEFIT RIGHTS

Sec. 207.071. Waiver, Release, or Commutation Agreement Invalid.

(a) Except for an employer's waiver under Chapter 204 and Section 205.011, an agreement by an individual to waive, release, or commute the individual's right to benefits or any other rights under this subtitle is not valid.

(b) An agreement by an individual employed by an employer to pay all or a portion of a contribution or reimbursement required to be paid by the employer under this subtitle is not valid.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.072. Acceptance or Requirement of Waiver Prohibited.

An employer may not require or accept a waiver of a right of an individual employed by the employer under this subtitle.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.073. Prohibited Deduction from Wages.

An employer may not, directly or indirectly, make, require, or accept a deduction from wages to finance

a contribution or reimbursement required to be paid by the employer under this subtitle.
(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.074. Criminal Offense; Penalty.

An employer, or officer or agent of an employer, commits an offense if the person violates Section 207.072 or 207.073. An offense under this section is punishable by:

(1) a fine of not less than $100 and not more than $1,000;

(2) imprisonment for not more than six months; or

(3) both a fine and imprisonment.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.075. Assignment of Benefits Prohibited; Benefit Exemptions.

(a) An assignment, pledge, or encumbrance of a right to benefits is not valid.

(b) A right to benefits is exempt from levy, execution, attachment, or any other remedy for debt collection.

(c) Benefits received by an individual are exempt from debt collection if the benefits are not mingled with other funds of the individual except for debts incurred for necessaries furnished to the individual or the individual's spouse or dependents during the time that the individual was unemployed.

(d) A waiver of an exemption provided by this section is not valid.

(e) Subchapter E prevails over this section to the extent of any conflict.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.076. Equal Treatment.

Benefits based on services for all employers in employment are payable in the same amount, on the same terms, and subject to the same conditions, except to the extent that Section 207.041 is applicable.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

SUBCHAPTER E
CHILD SUPPORT OBLIGATIONS

Sec. 207.091. Definitions.

In this subchapter:

(1) "Benefit" includes amounts payable by the commission under an agreement entered under federal law that provides for compensation, assistance, or allowances with respect to unemployment.

(2) "Child support obligation" includes only an obligation that is enforced under a plan described by Section 454 of the Social Security Act (42 U.S.C. Section 654) that has been approved by the secretary of health and human services under Subtitle IV, Part D, Social Security Act (42 U.S.C. Section 651 et seq.).

(3) "State or local child support enforcement agency" means an agency of the state or a political subdivision of the state operating under a plan described by Subdivision (2).

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.092. Disclosure of Child Support Obligations.

(a) An individual at the time of filing a new claim for benefits shall disclose whether the individual owes a child support obligation.

(b) If the individual discloses a child support obligation and the individual is determined to be eligible for benefits, the commission shall notify the state or local child support enforcement agency enforcing the child support obligation that the individual has been determined to be eligible for benefits.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 207.093. Withholding of Child Support by Commission.

(a) The commission shall withhold from the benefits payable to an individual that owes a child support obligation an amount equal to:

(1) any amount required to be withheld under legal process properly served on the commission;

(2) if Subdivision (1) does not apply, the amount determined under an agreement submitted to the commission under Section 454(19)(B)(i) of the Social Security Act (42 U.S.C. Section 654) by the state or local child support enforcement agency; or

(3) if neither Subdivision (1) or (2) applies, the amount the individual specifies to the commission to be withheld.

(b) The commission shall pay the amount withheld under Subsection (a) to the appropriate state or local child support enforcement agency. The amount withheld shall be treated for all purposes as if it were benefits paid to the individual and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligation.

(c) This section applies only if appropriate arrangements have been made for reimbursement to

the commission by a state or local child support enforcement agency for the administrative costs incurred by the commission under this subchapter that are attributable to the enforcement of child support obligations by the state or local child support enforcement agency.

(d) In this section, "legal process" has the meaning assigned by Section 459(i)(5) of the Social Security Act (42 U.S.C. Section 659).

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2007, 80th Leg., ch. 972 (S.B. 228), § 63, effective September 1, 2007.)

Sec. 207.094. Federal Law Requirement.

(a) This subchapter and Section 207.075(e) are enacted because Section 303(e) of the Social Security Act (42 U.S.C. Section 503(e)) requires the enactment of these provisions into state law as a condition for federal funding of administration of the state unemployment compensation laws.

(b) If Section 303(e) of the Social Security Act (42 U.S.C. Section 503(e)) is repealed, this subchapter and Section 207.075(e) are repealed.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

SUBCHAPTER F
TAX WITHHOLDING

Sec. 207.101. Withholding from Benefits for Federal Income Tax.

(a) An eligible individual may elect to have federal income tax withheld from benefits. The commission shall withhold federal income taxes from the benefits of an individual who elects the withholding as provided by the Federal Unemployment Tax Act (26 U.S.C. Section 3301 et seq.) and Section 303, Social Security Act (42 U.S.C. Section 503).

(b) The commission may not withhold federal income tax from benefits as provided by this section until January 1, 1997.

(Enacted by Acts 1995, 74th Leg., ch. 1033 (H.B. 1233), § 1, effective August 28, 1995; am. Acts 2005, 79th Leg., ch. 1104 (H.B. 2273), § 3, effective September 1, 2005.)

SUBCHAPTER G
WITHHOLDING FROM UNEMPLOYMENT BENEFITS FOR UNCOLLECTED OVERISSUANCES OF FOOD STAMPS

Sec. 207.111. Definitions.

In this subchapter:

(1) "State agency" has the meaning assigned by Section 3(n), Food Stamp Act of 1977 (7 U.S.C. Section 2012(n)).

(2) "Uncollected overissuance" has the meaning assigned by Section 13(c)(1), Food Stamp Act of 1977 (7 U.S.C. Section 2022(c)(1)).

(3) "Unemployment benefits" means benefits payable under this subtitle and any other amounts payable by the commission under an agreement entered into under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(Enacted by Acts 1997, 75th Leg., ch. 93 (H.B. 565), § 3, effective September 1, 1997.)

Sec. 207.112. Application.

This subchapter applies only if arrangements have been made for reimbursement by the state agency for the administrative costs incurred by the commission under this subchapter that are attributable to the repayment of uncollected overissuances to the state agency.

(Enacted by Acts 1997, 75th Leg., ch. 93 (H.B. 565), § 3, effective September 1, 1997.)

Sec. 207.113. Required Disclosure; Notice to Food Stamp Agency.

(a) An individual who files a new claim for unemployment benefits shall disclose, at the time of filing of that claim, whether the individual owes an uncollected overissuance.

(b) If an individual who discloses under Subsection (a) that the individual does owe an uncollected overissuance is found eligible for unemployment benefits, the commission shall notify the state agency of the identity of that individual.

(Enacted by Acts 1997, 75th Leg., ch. 93 (H.B. 565), § 3, effective September 1, 1997.)

Sec. 207.114. Withholding.

(a) The commission shall deduct and withhold from unemployment benefits payable to an individual who owes an uncollected overissuance:

(1) the amount the individual specifies to the commission to be deducted and withheld under this section;

(2) the amount determined under an agreement submitted to the state agency under Section 13(c)(3)(A), Food Stamp Act of 1977 (7 U.S.C. Section 2022(c)(3)(A)); or

(3) any amount otherwise required to be deducted and withheld from unemployment benefits under Section 13(c)(3)(B), Food Stamp Act of 1977 (7 U.S.C. Section 2022(c)(3)(B)).

(b) The commission shall pay any amount deducted and withheld under this section to the state agency in this state.

(c) An amount deducted and withheld under this section shall be treated for all purposes as if it were paid to the individual as unemployment benefits and submitted by that individual to the state agency as repayment of the individual's uncollected overissuance.

(Enacted by Acts 1997, 75th Leg., ch. 93 (H.B. 565), § 3, effective September 1, 1997.)

SUBTITLE B
TEXAS WORKFORCE COMMISSION; WORKFORCE DEVELOPMENT; EMPLOYMENT SERVICES

CHAPTER 301
TEXAS WORKFORCE COMMISSION

Subchapter D. General Powers and Duties of Commission and Executive Director

SUBCHAPTER D
GENERAL POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR

Sec. 301.0611. Coordination of Certain Awards and Incentives.

The commission, in cooperation with the Texas Education Agency, the comptroller, and the Texas Higher Education Coordinating Board, shall prepare and make available to the public a list of all awards and incentives available for business participation in:

(1) a school district's career and technology education program under Subchapter F, Chapter 29, Education Code; or

(2) any other career and technology education training.

(Enacted by Acts 2003, 78th Leg., ch. 61 (H.B. 242), § 9, effective September 1, 2003.)

CHAPTER 302
DIVISION OF WORKFORCE DEVELOPMENT

Subchapter A. General Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 302.014. Employment Information for Secondary School Students.

(a) The commission shall provide the Texas Education Agency with information at least each quarter regarding current and projected employment opportunities in this state, disaggregated by county or other appropriate region.

(b) The Texas Education Agency shall provide the information obtained under Subsection (a) to school districts for use in local planning and implementation of career and technical education and training programs.

(Enacted by Acts 2013, 83rd Leg., ch. 212 (H.B. 809), § 1, effective September 1, 2013.)

TITLE 5
WORKERS' COMPENSATION

SUBTITLE C
WORKERS' COMPENSATION INSURANCE COVERAGE FOR CERTAIN GOVERNMENT EMPLOYEES

CHAPTER 504
WORKERS' COMPENSATION INSURANCE COVERAGE FOR EMPLOYEES OF POLITICAL SUBDIVISIONS

Subchapter A. General Provisions

Subchapter C. Benefits and Offsets

Subchapter D. Administration

SUBCHAPTER A GENERAL PROVISIONS

Sec. 504.001. Definitions.

In this chapter, unless a different meaning is plainly required by the context:

(1) "Division" means the division of workers' compensation of the Texas Department of Insurance.

(2) "Employee" means:

(A) a person in the service of a political subdivision who has been employed as provided by law; or

(B) a person for whom optional coverage is provided under Section 504.012 or 504.013.

(3) "Political subdivision" means a county, municipality, special district, school district, junior college district, housing authority, community center for mental health and mental retardation services established under Subchapter A, Chapter 534, Health and Safety Code, or any other legally constituted political subdivision of the state.

(4) "Pool" means two or more political subdivisions collectively self-insuring under an interlocal contract under Chapter 791, Government Code.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 3.318, effective September 1, 2005.)

Sec. 504.002. Application of General Workers' Compensation Laws; Limit on Actions and Damages.

(a) The following provisions of Subtitles A and B apply to and are included in this chapter except to the extent that they are inconsistent with this chapter:

(1) Chapter 401, other than Section 401.011(18) defining "employer" and Section 401.012 defining "employee";

(2) Chapter 402;

(3) Chapter 403, other than Sections 403.001—403.005;

(4) Chapters 404 and 405;

(5) Sections 406.006—406.009 and Subchapters B and D—G, Chapter 406, other than Sections 406.033, 406.034, 406.035, 406.091, and 406.096;

(6) Chapter 408, other than Sections 408.001(b) and (c);

(7) Chapters 409—412;

(8) Chapter 413, except as provided by Section 504.053;

(9) Chapters 414—417; and

(10) Chapter 451.

(b) For the purpose of applying the provisions listed by Subsection (a) to this chapter, "employer" means "political subdivision."

(c) Neither this chapter nor Subtitle A authorizes a cause of action or damages against a political subdivision or an employee of a political subdivision beyond the actions and damages authorized by Chapter 101, Civil Practice and Remedies Code.

(d) For the purpose of applying the provisions listed by Subsection (a), "written notice" to a political subdivision that self-insures, either individually or collectively through an interlocal agreement as described by Section 504.011, occurs only on written notice to the intergovernmental risk pool or other entity responsible for administering the claim.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 954 (H.B. 2511), § 6, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 939 (S.B. 1282), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 3.319, effective September 1, 2005.)

Sec. 504.003. Election of Remedies.

A person may not bring an action for wrongful discharge under both Chapter 451 and Chapter 554, Government Code.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(77), effective September 1, 1995.)

SUBCHAPTER B COVERAGE

Sec. 504.011. Method of Providing Coverage.

A political subdivision shall extend workers' compensation benefits to its employees by:

(1) becoming a self-insurer;

(2) providing insurance under a workers' compensation insurance policy; or

(3) entering into an interlocal agreement with other political subdivisions providing for self-insurance.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.012. Optional Coverages.

(a) A political subdivision may cover volunteer fire fighters, police officers, emergency medical personnel, and other volunteers that are specifically named. A person covered under this subsection is entitled to full medical benefits and the minimum compensation payments under the law. Notwithstanding any other law, the governing body of the political subdivision may elect to provide compensation payments to a person covered under this subsection that are greater than the minimum benefits provided under this title.

(b) By majority vote of the members of the governing body of a political subdivision, the political subdivision may cover as employees:

(1) an elected official;

(2) persons paid for jury service; or

(3) persons paid for service in the conduct of an election.

(c) A political subdivision may cover a child who is in a program established by the political subdivision to assist children in rendering personal services to a charitable or educational institution under Section 54.041(b), Family Code.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 1426 (H.B. 2510), § 18, effective September 1, 1999.)

Sec. 504.013. Coverage for Trustees and Staff of Self-Insurance Fund.

By majority vote of the board of trustees of a self-insurance fund created under this chapter, the fund may cover:

(1) members of the board of trustees;

(2) staff of the fund, including persons with whom the fund has contracted to perform staff functions; or

(3) any other self-insurance fund created under Chapter 791, Government Code.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.014. Exclusions.

A person is not an employee and is not entitled to compensation under this chapter if the person:

(1) is in the service of a political subdivision and is paid on a piecework basis or on a basis other than by the hour, day, week, month, or year;

(2) is a patient or client of a political subdivision involved in vocational training;

(3) is a prisoner incarcerated by a political subdivision; or

(4) performs services that may benefit a political subdivision, or is employed by or under contract with a performer providing those services, but does not receive payment from the political subdivision for the performance of the services, if the services are performed in connection with the operation or production of:

(A) a stock show;

(B) a rodeo;

(C) a carnival;

(D) a circus;

(E) a musical, vocal, or theatrical performance;

(F) a professional baseball league or game;

(G) a professional hockey league or game;

(H) a wrestling event or match;

(I) a vehicle or motorcycle event; or

(J) another entertainment event.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2003, 78th Leg., ch. 841 (S.B. 478), § 1, effective September 1, 2003.)

Sec. 504.015. Municipal Utilities.

(a) This section applies to a municipal utility operated by a board of trustees established under Section 1502.070, Government Code, or a similar law.

(b) The board of trustees of a utility has the authority of the governing body of the municipality under this chapter to:

(1) adopt a self-insurance program or take out a policy of workers' compensation insurance; and

(2) adopt resolutions, give notices, and do all things concerning workers' compensation regarding the utility's employees that the governing body of the municipality would be authorized to do regarding other municipal employees or groups of employees.

(c) Funds set aside or spent for the purpose of workers' compensation insurance are considered operating expenses of the utility. Funds set aside or paid by the board of trustees for self-insurance or for premiums on insurance policies shall be paid out of utility revenues. A provision for self-insurance or an obligation incurred under an insurance policy is not a general liability of the municipality but is payable only out of utility revenues.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.282, effective September 1, 2001.)

Sec. 504.016. Joint Insurance Fund.

(a) Two or more political subdivisions may establish a joint insurance fund as provided by this section.

(b) A political subdivision may pay into the fund its proportionate part as due and may contract for the fund, by and through its directors, to make the payments due under this chapter to employees of the political subdivision.

(c) The fund may be operated under the rules and bylaws established by the participating political subdivisions.

(d) A joint insurance fund created under this section may provide to the Texas Department of Insurance loss data in the same manner as an insurance company writing workers' compensation insurance. The State Board of Insurance shall use the loss data as provided by Subchapter D, Chapter 5, Insurance Code.

(e) Except as provided by Subsection (d), a joint insurance fund created under this section is not considered insurance for purposes of any state statute and is not subject to State Board of Insurance rules.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.017. Federal and State Funded Transportation Entities.

An entity is eligible to participate under Section 504.016 or Chapter 791 or 2259, Government Code, if the entity provides transportation subsidized in whole or in part by and provided to clients of:

(1) the Department of Assistive and Rehabilitative Services;

(2) the Department of State Health Services;

(3) the Cancer Prevention and Research Institute of Texas;

(4) the Texas Department of Housing and Community Affairs;

(5) the Health and Human Services Commission;

(6) the Department of Aging and Disability Services; or

(7) the Texas Youth Commission.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 835 (H.B. 2859), § 27, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.283, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 266 (H.B. 14), § 5, effective November 6, 2007.)

Sec. 504.018. Notice to Division and Employees; Effect on Common-Law or Statutory Liability.

(a) A political subdivision shall notify the division of the method by which its employees will receive benefits, the approximate number of employees covered, and the estimated amount of payroll.

(b) A political subdivision shall notify its employees of the method by which the employees will receive benefits and the effective date of the coverage. Employees of a political subdivision are conclusively considered to have accepted the compensation provisions instead of common-law or statutory liability or cause of action, if any, for injuries received in the course of employment or death resulting from injuries received in the course of employment.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2005, 79th Leg., ch. 265 (H.B. 7),§§ 3.320, 3.321, effective September 1, 2005.)

SUBCHAPTER C
BENEFITS AND OFFSETS

Sec. 504.051. Offset Against Payments for Incapacity.

(a) Benefits provided under this chapter shall be offset:

(1) to the extent applicable, by any amount for incapacity received as provided by:

(A) Chapter 143, Local Government Code; or

(B) any other statute in effect on June 19, 1975, that provides for the payment for incapacity to work because of injury on the job that is also covered by this chapter; and

(2) by any amount paid under Article III, Section 52e, of the Texas Constitution, as added in 1967.

(b) If benefits are offset, the employer may not withhold the offset portion of the employee's wages until the time that benefits under this chapter are received.

(c) If an employee's wages are offset, the employee and employer shall contribute to the pension fund on the amount of money by which the employee's wages were offset. An employee's pension benefit may not be reduced as a result of the employee's injuries or any compensation received under this chapter unless the reduction results from a pension revision passed by a majority vote of the affected members of a pension system.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.052. Sick Leave Benefits.

(a) The governing body of a political subdivision, by majority vote, may provide that while an employee of the political subdivision is receiving benefits under this chapter, the employee may elect to receive previously accrued sick leave benefits, whether statutory or contractual, in an amount equal to the difference between the benefits under this chapter and the weekly compensation that the employee was receiving before the injury that resulted in the claim.

(b) Sick leave benefits received under Subsection (a) shall be deducted proportionately from the employee's sick leave balance.

(c) This section does not limit the medical benefits to be paid to the employee. A sick leave plan may not require an employee to take sick leave benefits before receiving benefits under this chapter.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.053. Election.

(a) A political subdivision that self-insures either individually or collectively shall provide workers' compensation medical benefits to the injured employees of the political subdivision through a workers' compensation health care network certified under Chapter 1305, Insurance Code, if the governing body of the political subdivision determines that provision of those benefits through a network is available to the employees and practical for the political subdivision. A political subdivision may enter into interlocal agreements and other agreements with other political subdivisions to establish or contract with networks under this section.

(b) If a political subdivision or a pool determines that a workers' compensation health care network certified under Chapter 1305, Insurance Code, is not available or practical for the political subdivision or pool, the political subdivision or pool may provide medical benefits to its injured employees or to the injured employees of the members of the pool:

(1) in the manner provided by Chapter 408, other than Sections 408.001(b) and (c) and Section 408.002, and by Subchapters B and C, Chapter 413; or

(2) by directly contracting with health care providers or by contracting through a health benefits pool established under Chapter 172, Local Government Code.

(c) If the political subdivision or pool provides medical benefits in the manner authorized under Subsection (b)(2), the following do not apply:

(1) Sections 408.004 and 408.0041, unless use of a required medical examination or designated doctor is necessary to resolve an issue relating to the entitlement to or amount of income benefits under this title;

(2) Subchapter B, Chapter 408, except for Section 408.021;

(3) Chapter 413, except for Section 413.042; and

(4) Chapter 1305, Insurance Code, except for Sections 1305.501, 1305.502, and 1305.503.

(d) If the political subdivision or pool provides medical benefits in the manner authorized under Subsection (b)(2), the following standards apply:

(1) the political subdivision or pool must ensure that workers' compensation medical benefits are reasonably available to all injured workers of the political subdivision or the injured workers of the members of the pool within a designed service area;

(2) the political subdivision or pool must ensure that all necessary health care services are provided in a manner that will ensure the availability of and accessibility to adequate health care providers, specialty care, and facilities;

(3) the political subdivision or pool must have an internal review process for resolving complaints relating to the manner of providing medical benefits, including an appeal to the governing body or its designee and appeal to an independent review organization;

(4) the political subdivision or pool must establish reasonable procedures for the transition of injured workers to contract providers and for the continuity of treatment, including notice of impending termination of providers and a current list of contract providers;

(5) the political subdivision or pool shall provide for emergency care if an injured worker cannot reasonably reach a contract provider and the care is for medical screening or other evaluation that is necessary to determine whether a medical emergency condition exists, necessary emergency care services including treatment and stabilization, and services originating in a hospital emergency facility following treatment or stabilization of an emergency medical condition;

(6) prospective or concurrent review of the medical necessity and appropriateness of health care services must comply with Article 21.58A, Insurance Code;

(7) the political subdivision or pool shall continue to report data to the appropriate agency as required by Title 5 of this code and Chapter 1305, Insurance Code; and

(8) a political subdivision or pool is subject to the requirements under Sections 1305.501, 1305.502, and 1305.503, Insurance Code.

(e) Nothing in this chapter waives sovereign immunity or creates a new cause of action.
(Enacted by Acts 2005, 79th Leg., ch. 265 (H.B. 7), § 3.322, effective September 1, 2005.)

Sec. 504.054. Contested Case Hearing on and Judicial Review of Independent Review.

(a) A party to a medical dispute that remains unresolved after the review described by Section 504.053(d)(3) is entitled to a contested case hearing. A hearing under this subsection shall be conducted by the division in the same manner as a hearing conducted under Section 413.0311.

(b) The hearing officer conducting the contested case hearing under Subsection (a) shall consider any treatment guidelines adopted by the political subdivision or pool that provides medical benefits under Section 504.053(b)(2) if those guidelines meet the standards provided by Section 413.011(e).

(c) A party that has exhausted all administrative remedies under Subsection (a) and is aggrieved by a final decision of the division may seek judicial review of the decision.

(d) Judicial review under Subsection (c) shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code, and is governed by the substantial evidence rule.

(e) A decision of the independent review organization is binding during the pendency of a dispute.
(Enacted by Acts 2011, 82nd Leg., ch. 1162 (H.B. 2605), § 36, effective September 1, 2011.)

Sec. 504.055. Expedited Provision of Medical Benefits for Certain Injuries Sustained by First Responder in Course and Scope of Employment.

(a) In this section, "first responder" means:

(1) an individual employed by a political subdivision of this state who is:

(A) a peace officer under Article 2.12, Code of Criminal Procedure;

(B) a person licensed under Chapter 773, Health and Safety Code, as an emergency care attendant, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-paramedic, or licensed paramedic; or

(C) a firefighter subject to certification by the Texas Commission on Fire Protection under Chapter 419, Government Code, whose principal duties are firefighting and aircraft crash and rescue; or

(2) an individual covered under Section 504.012(a) who is providing volunteer services to a political subdivision of this state as:

(A) a volunteer firefighter, without regard to whether the volunteer firefighter is certified under Subchapter D, Chapter 419, Government Code; or

(B) an emergency medical services volunteer, as defined by Section 773.003, Health and Safety Code.

(b) This section applies only to a first responder who sustains a serious bodily injury, as defined by Section 1.07, Penal Code, in the course and scope of employment. For purposes of this section, an injury sustained in the course and scope of employment includes an injury sustained by a first responder providing services on a volunteer basis.

(c) The political subdivision, division, and insurance carrier shall accelerate and give priority to an injured first responder's claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury described by Subsection (b).

(d) The division shall accelerate, under rules adopted by the commissioner of workers' compensation, a contested case hearing requested by or an appeal submitted by a first responder regarding the denial of a claim for medical benefits, including all health care required to cure or relieve the effects naturally resulting from a compensable injury described by Subsection (b). The first responder shall provide notice to the division and independent review organization that the contested case or appeal involves a first responder.

(e) Except as otherwise provided by this section, a first responder is entitled to review of a medical dispute in the manner provided by Section 504.054.
(Enacted by Acts 2011, 82nd Leg., ch. 1162 (H.B. 2605), § 36, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1162 (H.B. 2605), § 47 provides: "Section 504.055, Labor Code, as added by this Act, applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act [September 1, 2011]. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose."

Sec. 504.056. Intent of Expedited Provision of Medical Benefits for Certain Injuries Sustained by First Responder in Course and Scope of Employment.

The purpose of Section 504.055 is to ensure that an injured first responder's claim for medical benefits is accelerated by a political subdivision, insurance carrier, and the division to the full extent authorized by current law.
(Enacted by Acts 2011, 82nd Leg., ch. 1162 (H.B. 2605), § 36, effective September 1, 2011.)

SUBCHAPTER D ADMINISTRATION

Sec. 504.071. Rules; Forms.

A political subdivision may:

(1) adopt and publish rules and prescribe and furnish forms necessary to effectively administer this chapter; and

(2) adopt and enforce necessary rules for the prevention of accidents and injuries.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.072. Appropriations for Disbursements; Account; Report.

(a) A political subdivision may set aside from available appropriations, other than itemized salary appropriations, an amount sufficient to pay all costs, administrative expenses, benefits, insurance, and attorney's fees authorized by this chapter.

(b) The amount set aside under Subsection (a) shall be set up in a separate account in the political subdivision's records showing the disbursements authorized by this chapter. A statement of the amount set aside for disbursements from the account shall be included in an annual report made to the political subdivision's governing body and its treasurer.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993.)

Sec. 504.073. Representation in Legal Proceedings.

(a) Except as provided by Subsection (b), in a proceeding in connection with workers' compensation benefits provided by a political subdivision as a self-insurer, the political subdivision may be represented by:

(1) the political subdivision's attorney or that attorney's assistants; or

(2) outside counsel.

(b) In a proceeding involving workers' compensation for employees of a municipal utility operated by a board of trustees established under Section 1502.070, Government Code, or a similar law, if the board of trustees is a self-insurer, the municipality shall be represented by the regularly employed attorney or outside counsel of the board of trustees.

(Enacted by Acts 1993, 73rd Leg., ch. 269 (H.B. 752), § 1, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.284, effective September 1, 2001.)

Local Government Code

TITLE 3
ORGANIZATION OF COUNTY GOVERNMENT

SUBTITLE B
COMMISSIONERS COURT AND COUNTY OFFICERS

CHAPTER 87
REMOVAL OF COUNTY OFFICERS FROM OFFICE; FILLING OF VACANCIES

Subchapter A. General Provisions

Subchapter B. Removal by Petition and Trial

Subchapter C. Removal by Criminal Conviction

Subchapter D. Filling of Vacancies

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 87.001. No Removal for Prior Action.

An officer may not be removed under this chapter for an act the officer committed before election to office.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

SUBCHAPTER B
REMOVAL BY PETITION AND TRIAL

Sec. 87.011. Definitions.

In this subchapter:

(1) "District attorney" includes a criminal district attorney.

(2) "Incompetency" means:

(A) gross ignorance of official duties;

(B) gross carelessness in the discharge of those duties; or

(C) unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.

(3) "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.012. Officers Subject to Removal.

The district judge may, under this subchapter, remove from office:

(1) a district attorney;
(2) a county attorney;
(3) a county judge;
(4) a county commissioner;
(5) a county clerk;
(6) a district clerk;
(7) a district and county clerk;
(8) a county treasurer;
(9) a sheriff;
(10) a county surveyor;
(11) a county tax assessor-collector;
(12) a constable;
(13) a justice of the peace;
(14) a member of the board of trustees of an independent school district; and
(15) a county officer, not otherwise named by this section, whose office is created under the constitution or other law of this state.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2009, 81st Leg., ch. 37 (H.B. 328), § 4, effective May 19, 2009; am. Acts 2013, 83rd Leg., ch. 508 (S.B. 122), § 1, effective June 14, 2013.)

Sec. 87.013. General Grounds for Removal.

(a) An officer may be removed for:

(1) incompetency;

(2) official misconduct; or

(3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.014. Grounds: Failure to Give Bond.

A county officer who is required by law to give an official bond may be removed under this subchapter if the officer:

(1) fails to execute the bond within the time prescribed by law; or

(2) does not give a new bond, or an additional bond or security, if required by law to do so.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.015. Petition for Removal.

(a) A proceeding for the removal of an officer is begun by filing a written petition for removal in a district court of the county in which the officer resides. However, a proceeding for the removal of a district attorney is begun by filing a written petition in a district court of:

(1) the county in which the attorney resides; or

(2) the county where the alleged cause of removal occurred, if that county is in the attorney's judicial district.

(b) Any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county may file the petition. At least one of the parties who files the petition must swear to it at or before the filing.

(c) The petition must be addressed to the district judge of the court in which it is filed. The petition must set forth the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.016. Citation of Officer.

(a) After a petition for removal is filed, the person filing the petition shall apply to the district judge in writing for an order requiring a citation and a certified copy of the petition to be served on the officer.

(b) If the application for the order is made during the term of the court, action may not be taken on the petition until the order is granted and entered in the minutes of the court. If the application is made to the judge during the vacation of the court, the judge shall indicate on the petition the action taken and shall have the action entered in the minutes of the court at the next term.

(c) If the judge refuses to issue the order for citation, the petition shall be dismissed at the cost of the person filing the petition. The person may not take an appeal or writ of error from the judge's decision. If the judge grants the order for citation, the clerk shall issue the citation with a certified copy of the petition. The judge shall require the person filing the petition to post security for costs in the manner provided for other cases.

(d) The citation shall order the officer to appear and answer the petition on a date, fixed by the judge, after the fifth day after the date the citation is served. The time is computed as it is in other suits.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 563 (H.B. 2731), § 1, effective September 1, 1991.)

Sec. 87.017. Suspension Pending Trial; Temporary Appointee.

(a) After the issuance of the order requiring citation of the officer, the district judge may temporarily suspend the officer and may appoint another person to perform the duties of the office.

(b) The judge may not suspend the officer until the person appointed to serve executes a bond, with at least two good and sufficient sureties, in an amount fixed by the judge and conditioned as required by the judge. The bond shall be used to pay damages and costs to the suspended officer if the grounds for removal are found at trial to be insufficient or untrue. In an action to recover on the bond it is necessary to allege and prove that the temporary appointee actively aided and instigated the filing and prosecution of the removal action. The suspended officer must also serve written notice on

the temporary appointee and the appointee's bondsman, within 90 days after the date the bond is executed, stating that the officer intends to hold them liable on the bond and stating the grounds for that liability.

(c) If the final judgment establishes the officer's right to the office, the county shall pay the officer from the general fund of the county an amount equal to the compensation received by the temporary appointee.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.018. Trial.

(a) Officers may be removed only following a trial by jury.

(b) The trial for removal of an officer and the proceedings connected with the trial shall be conducted as much as possible in accordance with the rules and practice of the court in other civil cases, in the name of the State of Texas, and on the relation of the person filing the petition.

(c) In a removal case, the judge may not submit special issues to the jury. Under a proper charge applicable to the facts of the case, the judge shall instruct the jury to find from the evidence whether the grounds for removal alleged in the petition are true. If the petition alleges more than one ground for removal, the jury shall indicate in the verdict which grounds are sustained by the evidence and which are not sustained.

(d) The county attorney shall represent the state in a proceeding for the removal of an officer except as otherwise provided by Subsection (e) or (f).

(e) In a proceeding to remove a county attorney from office, the district attorney shall represent the state. If the county does not have a district attorney, the county attorney from an adjoining county, as selected by the commissioners court of the county in which the proceeding is pending, shall represent the state.

(f) In a proceeding to remove the county attorney or district attorney from office, the county attorney from an adjoining county, as selected by the commissioners court of the county in which the proceeding is pending, shall represent the state if the attorney who would otherwise represent the state under this section is also the subject of a pending removal proceeding.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 563 (H.B. 2731), § 2, effective September 1, 1991.)

Sec. 87.019. Appeal.

(a) Either party to a removal action may appeal the final judgment to the court of appeals in the manner provided for other civil cases. If the officer has not been suspended from office, the officer is not required to post an appeal bond but may be required to post a bond for costs.

(b) An appeal of a removal action takes precedence over the ordinary business of the court of appeals and shall be decided with all convenient dispatch. If the trial court judgment is not set aside or suspended, the court of appeals shall issue its mandate in the case within five days after the date the court renders its judgment.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

SUBCHAPTER C
REMOVAL BY CRIMINAL CONVICTION

Sec. 87.031. Immediate Removal.

(a) The conviction of a county officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.

(b) The court rendering judgment in such a case shall include an order removing the officer in the judgment.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.032. Appeal; Suspension.

If the officer appeals the judgment, the appeal supersedes the order of removal unless the court that renders the judgment finds that it is in the public interest to suspend the officer pending the appeal. If the court finds that the public interest requires suspension, the court shall suspend the officer as provided by this chapter.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 15.001, effective September 1, 2009.)

SUBCHAPTER D
FILLING OF VACANCIES

Sec. 87.041. Vacancies Filled by Appointment of Commissioners Court.

(a) The commissioners court of a county may fill a vacancy in the office of:

(1) county judge;
(2) county clerk;
(3) district and county clerk;
(4) sheriff;
(5) county attorney;
(6) county treasurer;
(7) county surveyor;

(8) county tax assessor-collector;
(9) justice of the peace; or
(10) constable.

(b) The commissioners court shall fill a vacancy by a majority vote of the members of the court who are present and voting.

(c) The person appointed by the commissioners court to fill the vacancy shall hold office until the next general election.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2009, 81st Leg., ch. 37 (H.B. 328), § 5, effective May 19, 2009.)

Sec. 87.042. County Commissioner Vacancy.

If a vacancy occurs in the office of county commissioner, the county judge shall appoint a suitable resident of the precinct in which the vacancy exists to fill the vacancy until the next general election.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 87.043. Temporary Absence in Office of County Judge in Certain Counties.

(a) In a county with a population of less than 150,000, a temporary absence occurs in the office of county judge if:

(1) the county judge is located outside the county for 30 consecutive full days as a direct result of:

(A) being a reservist or a member of the national guard who was ordered to duty under the authority of federal law;

(B) enlisting in the armed forces or the national guard as a volunteer; or

(C) being inducted into the armed forces under federal draft laws; and

(2) the commissioners court determines in writing that the absence prevents the county judge from satisfactorily discharging the duties of the office.

(b) If a temporary absence exists in the office of county judge, before the 30th day after the date the absence begins, the absent county judge may appoint a resident of the county to fill the office until the next term of that office or until the temporary absence ends, whichever event occurs first. If the absent county judge does not appoint a resident of the county within the 30-day period, the commissioners court shall appoint a resident of the county to fill the office until the next term of that office or until the temporary absence ends, whichever event occurs first.

(Enacted by Acts 1991, 72nd Leg., ch. 447 (S.B. 483), § 1, effective June 11, 1991.)

TITLE 4
FINANCES

SUBTITLE C
FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 131
DEPOSITORY PROVISIONS AFFECTING FUNDS OF MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Subchapter A. Special Depository

Subchapter Z. Miscellaneous Provisions

SUBCHAPTER A
SPECIAL DEPOSITORY

Sec. 131.001. Special Depository Authorized.

If a financial institution that is a depository under state law for the public funds of a county, municipality, or district suspends business or is taken charge of by a state or federal bank regulatory agency, the local government authority authorized to select the original depository may select by contract a special depository for the public funds in the suspended financial institution.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1997, 75th Leg., ch. 148 (S.B. 655), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 344 (H.B. 2066), § 5.010, effective September 1, 1999.)

Sec. 131.002. Duties of Special Depository.

The special depository shall assume the payment of the amount of public funds due by the suspended bank on the date of its suspension, including interest to that date, and shall pay that amount to the designated local government authority in accordance with the contract entered into by the special depository.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 131.003. Special Depository Contract.

(a) The contract must require the payment of the deposit in installments as agreed to by the parties. The last installment must be paid not later than three years from the date of the contract.

(b) The parties may contract for the installments or the amount due to be evidenced by negotiable certificates of deposit or cashier's checks, payable at specified dates.

(c) The contract must set the rate of interest applicable to the funds placed in the special depository under this subchapter unless the parties agree that the funds are not to bear interest.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 131.004. Bond.

(a) To secure the performance of a special depository contract, the special depository shall execute a bond, or bonds in the case of installments, with the same character of sureties required for regular depository bonds.

(b) The local government authority authorized by law to approve a bond of a regularly selected depository must approve a bond of a special depository.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 131.005. State Funds.

(a) The comptroller shall determine the amount of state funds held by a county depository that suspends business or is taken charge of by a state or federal bank regulatory agency. The comptroller may:

(1) contract with a special depository selected by the county authorities as provided by this subchapter for the custody and payment of those funds; and

(2) approve a bond for the deposit contract.

(b) State funds placed in a special depository as provided by Subsection (a) shall bear the average rate of interest received by the state on state funds placed with regularly selected state depositories.

(c) The comptroller may proceed with available legal remedies against a suspended bank that is a depository for state funds if the comptroller considers that action to be in the best interest of the public.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 35, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 344 (H.B. 2066), § 5.011, effective September 1, 1999.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 131.901. Out-of-State Depository Prohibited.

(a) The governing body of a political subdivision, including a county, municipality, school district, or other district, may not designate a financial institution located outside the state as a depository for funds under the governing body's jurisdiction. An out-of-state financial institution is not considered to be located outside this state to the extent the governing body designates a branch office of such institution that is located in this state.

(b) An institution selected as a paying agent or trustee for specific bonds or obligations or an institution selected by the governing body to provide safekeeping services is not considered a depository for purposes of this section.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 234 (H.B. 696), § 3, effective September 1, 1993; am. Acts 1999, 76th Leg., ch. 344 (H.B. 2066), § 5.012, effective September 1, 1999.)

Sec. 131.902. Pursuit of Legal Remedies Against Suspended Bank.

A county, municipality, or district authority may proceed with available legal remedies against a suspended bank that is a depository for public funds of the authority if the authority considers that action to be in the best interest of the public.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 131.903. Conflict of Interest.

(a) A bank is not disqualified from serving as a depository for funds of a political subdivision if:

(1) an officer or employee of the political subdivision who does not have the duty to select the political subdivision's depository is an officer, director, or shareholder of the bank; or

(2) one or more officers or employees of the political subdivision who have the duty to select the political subdivision's depository are officers or directors of the bank or own or have a beneficial

interest, individually or collectively, in 10 percent or less of the outstanding capital stock of the bank, if:

(A) a majority of the members of the board, commission, or other body of the political subdivision vote to select the bank as a depository; and

(B) the interested officer or employee does not vote or take part in the proceedings.

(b) This section may not be construed as changing or superseding a conflicting provision in the charter of a home-rule municipality.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 36, effective September 1, 1993.)

CHAPTER 140
MISCELLANEOUS FINANCIAL PROVISIONS AFFECTING MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

Section

Sec. 140.002. Investments by Political Subdivision in Defense Bonds and Other Federal Obligations.

A political subdivision that has a balance remaining in any of its accounts at the end of a fiscal year may invest the balance in defense bonds or other obligations of the United States. If those funds are needed, the political subdivision shall sell or redeem the federal obligations in which the funds are invested and shall deposit the proceeds of the obligations in the account from which they were originally drawn.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 140.005. Annual Financial Statement of School, Road, or Other District.

The governing body of a school district, open-enrollment charter school, junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 37, effective September 1. 1993; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 34, effective September 1, 2001.)

Sec. 140.006. Publication of Annual Financial Statement by School, Road, or Other District.

(a) Except as provided by Subsections (c) and (e), the presiding officer of a governing body shall submit a financial statement prepared under Section 140.005 to a newspaper in each county in which the district or any part of the district is located.

(b) If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not published in the county, the financial statement may be published in a newspaper in an adjoining county.

(c) The presiding officer of a school district shall submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, the financial statement shall be published in the manner provided by Subsections (a) and (b). The governing body of an open-enrollment charter school shall take action to ensure that the school's financial statement is made available in the manner provided by Chapter 552, Government Code, and is posted continuously on the school's Internet website.

(d) A statement shall be published not later than two months after the date the fiscal year ends, except that a school district's statement shall be published not later than the 150th day after the date the fiscal year ends and in accordance with the accounting method required by the Texas Education Agency.

(e) This section does not apply to an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(Enacted by Acts 1993, 73rd Leg., ch. 268 (S.B. 248), § 37, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 50, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1504 (H.B. 6), § 35, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 41 (H.B. 978), § 1, effective May 8, 2007; am. Acts 2013, 83rd Leg., ch. 1140 (S.B. 2), § 46, effective September 1, 2013.)

TITLE 5
MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE B
COUNTY OFFICERS AND EMPLOYEES

CHAPTER 153
COMPENSATION OF COUNTY OFFICERS ON FEE BASIS

Section
153.001. County Treasurer's Commission for Receiving or Paying Out Money.

Sec. 153.001. County Treasurer's Commission for Receiving or Paying Out Money.

(a) In a county in which the county treasurer is compensated on a fee basis, the treasurer is entitled to the following commissions for receiving and paying out money for the county:

(1) for money other than school funds, a percentage set by order of the commissioners court not to exceed 2-1/2 percent of the money received and a percentage set by order of the court not to exceed 2-1/2 percent of the money paid out; and

(2) for school funds, one-half percent of the money received and one-half percent of the money paid out.

(b) A commission earned under Subsection (a)(2) is payable from the available school fund of the county.

(c) A county treasurer may not receive a commission under this section for money received from the treasurer's predecessor or money paid to the treasurer's successor. A county treasurer may not receive a commission under Subsection (a)(2) for transferring money.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

SUBTITLE C
MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 171
REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Section
171.001. Definitions.
171.002. Substantial Interest in Business Entity.
171.0025. Application of Chapter to Member of Higher Education Authority.
171.003. Prohibited Acts; Penalty.
171.004. Affidavit and Abstention from Voting Required.
171.005. Voting on Budget.
171.006. Effect of Violation of Chapter.
171.007. Common Law Preempted; Cumulative of Municipal Provisions.
171.008. Effect of Violation of Chapter [Renumbered].
171.009. Service on Board of Corporation for No Compensation.
171.010. Practice of Law.

Sec. 171.001. Definitions.

In this chapter:

(1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 171.002. Substantial Interest in Business Entity.

(a) For purposes of this chapter, a person has a substantial interest in a business entity if:

(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 561 (H.B. 1345), § 37, effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(27), effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 849 (H.B. 998), § 1, effective September 1, 1997.)

Sec. 171.0025. Application of Chapter to Member of Higher Education Authority.

This chapter does not apply to a board member of a higher education authority created under Chapter 53, Education Code, unless a vote, act, or other participation by the board member in the affairs of the higher education authority would provide a financial benefit to a financial institution, school, college, or university that is:

(1) a source of income to the board member; or

(2) a business entity in which the board member has an interest distinguishable from a financial benefit available to any other similar financial institution or other school, college, or university whose students are eligible for a student loan available under Chapter 53, Education Code.

(Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 41(a), effective August 28, 1989.)

Sec. 171.003. Prohibited Acts; Penalty.

(a) A local public official commits an offense if the official knowingly:

(1) violates Section 171.004;

(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

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

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.)

Sec. 171.004. Affidavit and Abstention from Voting Required.

(a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.)

Sec. 171.005. Voting on Budget.

(a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989 (renumbered from Sec. 171.006).)

Sec. 171.006. Effect of Violation of Chapter.

The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989 (renumbered from Sec. 171.008).)

Sec. 171.007. Common Law Preempted; Cumulative of Municipal Provisions.

(a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

(Am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.)

Sec. 171.008. Effect of Violation of Chapter [Renumbered].

Renumbered to Tex. Local Gov't Code § 171.006 by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 40(a), effective August 28, 1989.

Sec. 171.009. Service on Board of Corporation for No Compensation.

It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

(Enacted by Acts 1989, 71st Leg., ch. 475 (H.B. 1976), § 2, effective August 28, 1989.)

Sec. 171.010. Practice of Law.

(a) For purposes of this chapter, a county judge or county commissioner engaged in the private practice of law has a substantial interest in a business entity if the official has entered a court appearance or signed court pleadings in a matter relating to that business entity.

(b) A county judge or county commissioner that has a substantial interest in a business entity as described by Subsection (a) must comply with this chapter.

(c) A judge of a constitutional county court may not enter a court appearance or sign court pleadings as an attorney in any matter before:

(1) the court over which the judge presides; or

(2) any court in this state over which the judge's court exercises appellate jurisdiction.

(d) Upon compliance with this chapter, a county judge or commissioner may practice law in the courts located in the county where the county judge or commissioner serves.

(Enacted by Acts 2003, 78th Leg., ch. 227 (H.B. 599), § 21, effective September 1, 2003; Enacted by Acts 2003, 78th Leg., ch. 1206 (S.B. 1047), § 3, effective June 20, 2003.)

CHAPTER 172
TEXAS POLITICAL SUBDIVISIONS UNIFORM GROUP BENEFITS PROGRAM

Section

Sec. 172.001. Short Title.

This chapter may be cited as the Texas Political Subdivision Employees Uniform Group Benefits Act.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989.)

Sec. 172.002. Purpose.

The purpose of this chapter is to:

(1) provide uniformity in benefits including accident, health, dental, and long-term disability coverage to employees of political subdivisions;

(2) enable the political subdivisions to attract and retain competent and able employees by providing them with accident and health benefits coverages at least equal to those commonly provided in private industry;

(3) foster, promote, and encourage employment by and service to political subdivisions as a career profession for persons of high standards of competence and ability;

(4) recognize and protect the political subdivisions' investment in each permanent employee by promoting and preserving economic security and good health among those employees;

(5) foster and develop high standards of employer-employee relationships between each political subdivision and its employees;

(6) recognize the service to political subdivisions by elected officials and employees of affiliated service contractors by extending to them the same accident and health benefits coverages as

are provided for political subdivision employees; and

(7) recognize the long and faithful service and dedication of employees of political subdivisions and to encourage them to remain in service of their respective political subdivisions until eligible for retirement by providing health benefits to those employees.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 2001, 77th Leg., ch. 491 (H.B. 1254), § 1, effective September 1, 2001.)

Sec. 172.003. Definitions.

In this chapter:

(1) "Affiliated service contractor" means an organization qualified for exemption under Section 501(c), Internal Revenue Code (26 U.S.C. Section 501(c)), as amended, that provides governmental or quasi-governmental services on behalf of a political subdivision and derives more than 25 percent of its gross revenues from grants or funding from the political subdivision.

(2) "Employee" means a person who works at least 20 hours a week for a political subdivision.

(3) "Political subdivision" means a county, municipality, special district, school district, junior college district, housing authority, or other political subdivision of this state or any other state.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 2001, 77th Leg., ch. 491 (H.B. 1254), § 2, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 1094 (H.B. 2120), § 28, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1363 (S.B. 654), § 5, effective June 19, 2009.)

Sec. 172.004. Benefits Contract.

(a) A political subdivision or a group of political subdivisions pursuant to The Interlocal Cooperation Act (Chapter 791, Government Code) directly or through a risk pool may provide health and accident coverage for political subdivision officials, employees, and retirees or any class of officials, employees, or retirees, and employees of affiliated service contractors.

(b) The types of coverage that may be provided include group health and accident, group dental, accidental death and dismemberment, and hospital, surgical, and medical expense.

(c) A political subdivision also may include under the coverage dependents of the officers, employees, and retirees and of employees of affiliated service contractors.

(d) A pool's board of trustees may provide coverage for the trustees and the pool's staff, including persons with whom the pool has contracted to perform staff functions, on approval of the members of the pool.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 2001, 77th Leg., ch. 491 (H.B. 1254), § 3, effective September 1, 2001.)

Sec. 172.005. Risk Pool.

(a) A political subdivision may establish a risk pool or may enter into an interlocal agreement under The Interlocal Cooperation Act (Chapter 791, Government Code) with other political subdivisions to establish a risk pool to provide health and accident coverage for officials, employees, retirees, employees of affiliated service contractors, and their dependents.

(b) Contributions paid by a political subdivision's officials, employees, and retirees and employees of affiliated service contractors for coverage shall be deposited to the credit of the risk pool's fund and used as provided by rules of the risk pool.

(c) A pool by contract may purchase insurance coverage for persons who are covered by the pool from an insurance company authorized to do business in this state.

(d) A pool or its agents may not represent to persons who apply for coverage or who are covered by the pool that the coverage being provided is insurance unless the coverage is by contract purchased from an insurance company authorized to do business in this state.

(e) A risk pool organized under this section is a legal entity that may contract with an insurer licensed to do business in Texas to assume any excess of loss of a benefit contract authorized under Section 172.004. Notwithstanding any provision of the Insurance Code or any other law governing insurance in this state, an insurer authorized to do business in Texas may assume the excess of loss of the benefit contract under Section 172.004.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 611 (S.B. 1342), § 1, effective August 26, 1991; am. Acts 2001, 77th Leg., ch. 491 (H.B. 1254), § 4, effective September 1, 2001.)

Sec. 172.006. Supervision and Administration of Pool.

(a) A political subdivision or a group of political subdivisions that create a risk pool shall select trustees to supervise the operation of the pool.

(b) A pool may be administered by a staff employed by the pool, an entity created by the political subdivision or group of political subdivisions partic-

ipating in the pool, a staff or entity that administers another pool established under this chapter, or a third party administrator.

(c) Before entering into a contract with a person to be a third party administrator of the pool, the trustees shall require that person to submit information necessary for the trustees to evaluate the background, experience, and financial qualifications and solvency of that person. The information submitted by a prospective administrator other than an insurance company must disclose:

(1) any ownership interest that the prospective administrator has in an insurance company, group hospital service corporation, health maintenance organization, or other provider of health care indemnity; and

(2) any commission or other benefit that the prospective administrator will receive for purchasing services or coverage for the pool.

(d) An attorney employed by a third party administrator, provider of excess loss coverage, or reinsurer may not be simultaneously employed by the pool unless, before the attorney is employed by the pool, the third party administrator, provider of excess loss coverage, reinsurer, or attorney discloses to the pool's board of trustees that the attorney is employed by the administrator, provider, or reinsurer.

(e) If the state enacts a law providing for the licensing or registration of third party administrators, a risk pool in contracting for administrative services may only contract for services of a third party administrator licensed or registered under that law. This subsection does not apply to a nonprofit corporation that is acting solely on behalf of the risk pool or other pools or administrative agencies established under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes).

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 1999, 76th Leg., ch. 988 (H.B. 2754), § 1, effective September 1, 1999.)

Sec. 172.007. Trustee Training.

(a) Trustees who act as fiduciaries for a risk pool must have at least 16 hours of combined professional instruction with four hours of instruction in each of the following areas:

(1) law governing the establishment and operation of risk pools by political subdivisions;

(2) principles of self-insurance and risk pools, including actuarial and underwriting principles and investment principles;

(3) principles relating to reading and understanding financial statements; and

(4) the general fiduciary duties of trustees.

(b) Not later than the 180th day after the date of selection as trustee, or after the effective date of this chapter, whichever is the later date, a trustee must complete the training required by Subsection (a).

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989.)

Sec. 172.008. Excess Loss Coverage and Reinsurance.

(a) A risk pool may purchase excess loss coverage or reinsurance to insure a pool against financial losses that the pool determines might place the solvency of the pool in financial jeopardy.

(b) If a risk pool does not purchase excess loss coverage or reinsurance, the administrator shall give written notice to each person who applies for coverage from the pool that the pool does not maintain excess loss coverage or reinsurance. The administrator shall provide the notice before coverage is issued to an applicant and shall give the applicant the opportunity to decline the coverage.

(c) If a risk pool cancels or does not renew excess loss coverage or reinsurance, the administrator shall give notice to each person covered by the pool that the coverage has been canceled or has not been renewed and shall give each an opportunity to cancel his coverage. The administrator must give the notice and opportunity to cancel coverage not later than the 30th day after the date on which the pool cancels or does not renew the excess loss coverage or reinsurance.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989.)

Sec. 172.009. Investments.

(a) The trustees of a risk pool shall invest the pool's money in accordance with Subchapter A, Chapter 2256, Government Code to the extent that law can be made applicable.

(b) In addition to investments authorized under Subchapter A, Chapter 2256, Government Code, the trustees of a pool may invest the pool's money in any investment authorized by the Texas Trust Code (Subtitle B, Title 9, Property Code).

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(11), effective September 1, 1995.)

Sec. 172.010. Audits.

(a) The trustees of the pool shall have the fiscal accounts and records of the risk pool audited annually by an independent auditor.

(b) The person who performs the audit must be a certified public accountant or public accountant li-

censed by the Texas State Board of Public Accountancy.

(c) The independent audit shall cover a pool's fiscal year.

(d) The trustees of the pool shall file annually with the State Board of Insurance a copy of the audit report. The State Board of Insurance shall maintain the copies of the audit reports at a convenient location and shall make the copies of the audit reports available for public inspection during regular business hours. A person may request the State Board of Insurance to provide copies of any item included in an audit report on payment of the cost of providing the copies. The State Board of Insurance may adopt rules governing the time and manner for filing audit reports under this subsection and the procedures for filing, inspecting, and obtaining copies of audit reports.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 599 (S.B. 1004), § 15, effective September 1, 1991.)

Sec. 172.011. Insolvency.

(a) The trustees of a risk pool shall declare the pool insolvent if the trustees determine that the pool is unable to pay valid claims within 60 days after the date the claims are verified.

(b) If a pool is declared insolvent by the trustees, the pool shall cease operation on the day of the declaration, and the trustees shall provide for the disposition of the pool's assets, debts, obligations, losses, and other liabilities.

(c) A person who has coverage under a risk pool may institute proceedings to have the pool declared insolvent by petitioning a district court in Travis County to declare the pool insolvent. If the district court, after notice and hearing, determines that the pool is insolvent, the court shall appoint a receiver to take charge of and dispose of the pool's assets, debts, obligations, losses, and other liabilities. Except as provided by this chapter, a receivership under this section is governed by Chapter 64, Civil Practice and Remedies Code, to the extent that chapter can be made applicable.

(d) After a receiver takes charge of the assets and determines outstanding debts, obligations, losses, and other liabilities, the receiver shall give notice of his determination to any person, including a political subdivision that is a participant in the pool.

(e) If the receiver determines that money is owed to the pool by a political subdivision that is a participant in the pool, the political subdivision may protest the determination by filing with the court a protest statement not later than the 15th day after the date the notice of the receiver's determination is mailed.

(f) If a court in which a protest statement is filed determines after a hearing that an amount is owed by the political subdivision filing the protest statement, the political subdivision shall pay that amount to the receiver not later than the 30th day after the date on which the court's determination becomes final. A determination by a court on a protest statement is interlocutory.

(g) If a protest statement is not filed with the court, the political subdivision shall pay to the receiver the amount determined to be owed not later than the 30th day after the date on which the receiver mails the notice under Subsection (d).

(h) The court that appoints a receiver may direct that a reasonable fee be paid to the receiver as compensation for performance of responsibilities and duties and may assess each political subdivision that is a participant in the pool under the receiver's control an amount necessary to compensate the receiver.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989.)

Sec. 172.012. Limitation of Risk Pools.

(a) Except as provided by Subsection (b), a county may not provide health and accident coverage through a risk pool under this chapter, except:

(1) as authorized by Subchapter A, Chapter 157; or

(2) through an interlocal contract entered under The Interlocal Cooperation Act (Article 4413(32c), Vernon's Texas Civil Statutes) with other political subdivisions of this state if the aggregate annual contributions to the pool will exceed $1 million based on an actuarial estimate by an actuary who is a member of the American Academy of Actuaries.

(b) A county with a population of fewer than 500,000 may create and provide coverage through a pool if the aggregate annual claims, contributions, or both claims and contributions to the pool will exceed $300,000 based on an actuarial estimate by an actuary who is a member of the American Academy of Actuaries.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 649 (S.B. 1508), § 1, effective August 26, 1991.)

Sec. 172.013. Payment of Contributions and Premiums.

(a) A political subdivision may pay all or part of the contributions for coverage under this chapter

from local funds, including federal grant or contract pass-through funds, that are not dedicated by law to some other purpose.

(b) A political subdivision also may pay all or part of the contributions for coverage for officers, employees, retirees, and dependents, but may not pay any part of the contributions for coverage for employees of affiliated service contractors or their dependents.

(c) On written approval of an officer or employee, a political subdivision may deduct from the officer's or employee's compensation an amount necessary to pay that person's and his dependents' contributions. A retiree may authorize in writing the person who pays his retirement benefits to deduct from those benefits an amount sufficient to pay the retiree's and his dependents' contributions.

(d) State funds, except federal grant or contract funds passed through the state to its political subdivisions, may not be used to purchase coverage or to pay contributions under this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 2001, 77th Leg., ch. 491 (H.B. 1254), § 5, effective September 1, 2001.)

Sec. 172.014. Application of Certain Laws.

A risk pool created under this chapter is not insurance or an insurer under the Insurance Code and other laws of this state, and the State Board of Insurance does not have jurisdiction over a pool created under this chapter.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989.)

Sec. 172.015. [Repealed January 1, 2014] Subrogation; Adequate Recovery.

(a) In this section, "covered individual" means a person who is covered by the pool. The term includes an official, an employee, a retiree, and an employee of an affiliated service contractor and their dependents.

(b) The payor of employee benefits, whether a political subdivision, group of political subdivisions, pool, or carrier providing reinsurance to one of those entities, is subrogated to a covered individual's right of recovery for personal injuries caused by the tortious conduct of a third party.

(c) A payor of employee benefits whose interest is not actively represented by an attorney in a third-party action shall pay to an attorney representing the covered individual a fee in an amount determined under an agreement entered into between the attorney and the payor of employee benefits. Except as provided by Subsection (i), in the absence of an agreement, the court shall award to the attorney, payable out of the recovery of the payor of employee benefits, a reasonable fee for recovery of the interest of the payor of employee benefits, not to exceed one-third of the payor's recovery.

(d) If the injured covered individual is not able to realize a complete and adequate recovery for injuries sustained as a result of the actionable fault of a third party, the payor of employee benefits is entitled to a pro rata recovery described by Subsection (e). A common law doctrine that requires that an injured party be made whole before a subrogee makes a recovery does not apply to the recovery of the payor of employee benefits under this subsection.

(e) Unless otherwise agreed by a covered individual and the payor of employee benefits and subject to Subsection (f), the payor's pro rata share under Subsection (d) is an amount that is equal to the lesser of:

(1) one-third of the covered individual's total recovery; or

(2) the total cost of employee benefits paid by the payor as a direct result of the tortious conduct of the third party.

(f) A covered individual may bring an action for declaratory judgment to establish that the amount of the pro rata recovery to which the payor of employee benefits is entitled is an amount that is less than the pro rata share described by Subsection (e). To prevail in an action brought under this subsection, the covered individual must prove by a preponderance of the evidence that the amount of the covered individual's total recovery is less than 50 percent of the value of the covered person's underlying claim for damages.

(g) Except as otherwise provided by this subsection, the court shall establish the payor's pro rata recovery under Subsection (f) in an amount that is not less than 15 percent of and not more than one-third of the covered individual's total recovery. If a covered individual shows by clear and convincing evidence that the pro rata share otherwise described by this subsection would result in manifest injustice, the court shall establish the payor's pro rata recovery in an amount that is less than 15 percent of and equal to or greater than five percent of the covered individual's total recovery.

(h) Notwithstanding Chapter 37, Civil Practice and Remedies Code, or any other law, in an action brought under Subsection (f) the court may not award costs or attorney's fees to any party in the action.

(i) Notwithstanding Subsection (c), a payor of employee benefits may not be assessed out of the recovery to which the payor is entitled under Sub-

section (e) or (f) any attorney's fees under any theory or rule of law, including the common fund doctrine.

(j) Subsections (c)—(i) do not apply to a payor of employee benefits participating in a cooperative effort to design and administer benefits through an administrative agency that includes a cooperative member that is a county with a population of at least two million that is adjacent to a county with a population of at least one million.

(Enacted by Acts 1989, 71st Leg., ch. 1067 (S.B. 262), § 1, effective September 1, 1989; am. Acts 2007, 80th Leg., ch. 1379 (S.B. 561), § 1, effective June 15, 2007.)

Sec. 172.016. Status of Affiliated Service Contractors.

Inclusion of the employees of affiliated service contractors in the uniform group benefits program authorized by this chapter does not, for any purpose:

(1) make an affiliated service contractor a political subdivision or a division of a political subdivision; or

(2) make an employee of an affiliated service contractor an employee of a political subdivision or a division of a political subdivision.

(Enacted by Acts 2001, 77th Leg., ch. 491 (H.B. 1254), § 6, effective September 1, 2001.)

CHAPTER 176
DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION

Section

Sec. 176.001. Definitions.

In this chapter:

(1) "Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person.

(1-a) "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

(1-b) "Charter school" means an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(1-c) "Commission" means the Texas Ethics Commission.

(1-d) "Contract" means a written agreement for the sale or purchase of real property, goods, or services.

(2) "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Section 573.024(b), Government Code.

(2-a) "Goods" means personal property.

(2-b) "Investment income" means dividends, capital gains, or interest income generated from:

(A) a personal or business:

(i) checking or savings account;

(ii) share draft or share account; or

(iii) other similar account;

(B) a personal or business investment; or

(C) a personal or business loan.

(3) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, or other political subdivision of this state or a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality. The term does not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or federal government.

(4) "Local government officer" means:

(A) a member of the governing body of a local governmental entity;

(B) a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or

(C) an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with Section 176.005, extended the requirements of Sections 176.003 and 176.004.

(5) "Records administrator" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under this chapter and perform related functions.

(6) "Services" means skilled or unskilled labor or professional services, as defined by Section 2254.002, Government Code.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 1, effective May 25, 2007.)

Sec. 176.002. Applicability to Certain Vendors and Other Persons.

(a) This chapter applies to a person who:

(1) enters or seeks to enter into a contract with a local governmental entity; or

(2) is an agent of a person described by Subdivision (1) in the person's business with a local governmental entity.

(b) A person is not subject to the disclosure requirements of this chapter if the person is:

(1) a state, a political subdivision of a state, the federal government, or a foreign government; or

(2) an employee of an entity described by Subdivision (1), acting in the employee's official capacity.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 2, effective May 25, 2007.)

Sec. 176.003. Conflicts Disclosure Statement Required.

(a) A local government officer shall file a conflicts disclosure statement with respect to a person described by Section 176.002(a) if:

(1) the person enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the person; and

(2) the person:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:

(i) a contract described by Subdivision (1) has been executed; or

(ii) the local governmental entity is considering entering into a contract with the person; or

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $250 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract described by Subdivision (1) has been executed; or

(ii) the local governmental entity is considering entering into a contract with the person.

(a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

(1) given by a family member of the person accepting the gift;

(2) a political contribution as defined by Title 15, Election Code; or

(3) food, lodging, transportation, or entertainment accepted as a guest.

(b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).

(c) A local government officer commits an offense if the officer knowingly violates this section. An offense under this subsection is a Class C misdemeanor.

(d) It is an exception to the application of Subsection (c) that the person filed the required conflicts disclosure statement not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007,

80th Leg., ch. 226 (H.B. 1491), § 3, effective May 25, 2007.)

Sec. 176.004. Contents of Disclosure Statement.

The commission shall adopt the conflicts disclosure statement for local government officers. The conflicts disclosure statement must include:

(1) a requirement that each local government officer disclose:

(A) an employment or other business relationship described by Section 176.003(a), including the nature and extent of the relationship; and

(B) gifts accepted by the local government officer and any family member of the officer from a person described by Section 176.002(a) during the 12-month period described by Section 176.003(a)(2)(B) if the aggregate value of the gifts, excluding gifts described by Section 176.003(a-1), accepted by the officer or a family member from that person exceed $250;

(2) an acknowledgment from the local government officer that:

(A) the disclosure applies to each family member of the officer; and

(B) the statement covers the 12-month period described by Section 176.003(a); and

(3) the signature of the local government officer acknowledging that the statement is made under oath under penalty of perjury.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 4, effective May 25, 2007.)

Sec. 176.005. Application to Certain Employees.

(a) The local governmental entity may extend the requirements of Sections 176.003 and 176.004 to any employee of the local governmental entity who has the authority to approve contracts on behalf of the local governmental entity, including a person designated as the representative of the local governmental entity for purposes of Chapter 271. The local governmental entity shall identify each employee made subject to Sections 176.003 and 176.004 under this subsection and shall provide a list of the identified employees on request to any person.

(b) A local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under this section.

(c) An employee of a local governmental entity commits an offense if the employee knowingly violates requirements imposed under this section. An offense under this subsection is a Class C misdemeanor.

(d) It is an exception to the application of Subsection (c) that the person filed the required conflicts disclosure statement not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 5, effective May 25, 2007.)

Sec. 176.006. Disclosure Requirements for Vendors and Other Persons; Questionnaire.

(a) A person described by Section 176.002(a) shall file a completed conflict of interest questionnaire if the person has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with an officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A); or

(2) has given an officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1).

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the person:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the person becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a); or

(B) that the person has given one or more gifts described by Subsection (a).

(b) The commission shall adopt a conflict of interest questionnaire for use under this section that requires disclosure of a person's business relationships with a local governmental entity.

(c) The questionnaire adopted under Subsection (b) must require, for the local governmental entity

with respect to which the questionnaire is filed, that the person filing the questionnaire:

(1) describe each employment or business relationship the person has with each local government officer of the local governmental entity;

(2) identify each employment or business relationship described by Subdivision (1) with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the person filing the questionnaire;

(3) identify each employment or business relationship described by Subdivision (1) with respect to which the person filing the questionnaire receives, or is likely to receive, taxable income, other than investment income, that:

(A) is received from, or at the direction of, a local government officer of the local governmental entity; and

(B) is not received from the local governmental entity; and

(4) describe each employment or business relationship with a corporation or other business entity with respect to which a local government officer of the local governmental entity:

(A) serves as an officer or director; or

(B) holds an ownership interest of 10 percent or more.

(d) A person described by Subsection (a) shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate.

(e) [Repealed by Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 9, effective May 25, 2007 and Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 15.005, effective September 1, 2009.]

(f) A person commits an offense if the person knowingly violates this section. An offense under this subsection is a Class C misdemeanor.

(g) It is an exception to the application of Subsection (f) that the person filed the required questionnaire not later than the seventh business day after the date the person received notice from the local governmental entity of the alleged violation.

(h) A local governmental entity does not have a duty to ensure that a person described by Section 176.002 files a conflict of interest questionnaire.

(i) The validity of a contract between a person described by Section 176.002 and a local governmental entity is not affected solely because the person fails to comply with this section.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), §§ 6, 9, effective May 25, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 15.005, effective September 1, 2009.)

Sec. 176.007. List of Government Officers.

The records administrator for a local governmental entity shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a questionnaire under Section 176.006.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005.)

Sec. 176.008. Electronic Filing.

The requirements of this chapter, including signature requirements, may be satisfied by electronic filing in a form approved by the commission.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005.)

Sec. 176.009. Posting on Internet.

(a) A local governmental entity that maintains an Internet website shall provide access to the statements and to questionnaires required to be filed under this chapter on that website. This subsection does not require a local governmental entity to maintain an Internet website.

(b) **[Repealed January 1, 2014]** This subsection applies only to a county with a population of one million or more or a municipality with a population of 500,000 or more. A county or municipality shall provide, on the Internet website maintained by the county or municipality, access to each report of political contributions and expenditures filed under Chapter 254, Election Code, by a member of the commissioners court of the county or the governing body of the municipality in relation to that office as soon as practicable after the officer files the report.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 7, effective May 25, 2007; am. Acts 2011, 82nd Leg., ch. 1163 (H.B. 2702), § 76, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 847 (H.B. 195), § 3(b), effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 847 (H.B. 195), § 4 provides: "Section 254.0401, Election Code, as amended by this Act, and Section 176.009, Local Government Code, as amended by this Act, apply only to a report of political contributions and expenditures that is required to be filed under Chapter 254, Election Code, on or after January 1, 2014."

Sec. 176.010. Requirements Cumulative.

The requirements of this chapter are in addition to any other disclosure required by law.

(Enacted by Acts 2005, 79th Leg., ch. 1014 (H.B. 914), § 1, effective June 18, 2005.)

Sec. 176.011. Maintenance of Records.

A records administrator shall maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.
(Enacted by Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 8, effective May 25, 2007.)

Sec. 176.012. Application of Public Information Law.

This chapter does not require a local governmental entity to disclose any information that is excepted from disclosure by Chapter 552, Government Code.
(Enacted by Acts 2007, 80th Leg., ch. 226 (H.B. 1491), § 8, effective May 25, 2007.)

CHAPTER 180
MISCELLANEOUS PROVISIONS AFFECTING OFFICERS AND EMPLOYEES OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Section
180.002. Defense of Civil Suits Against Peace Officers, Fire Fighters, and Emergency Medical Personnel.

Sec. 180.002. Defense of Civil Suits Against Peace Officers, Fire Fighters, and Emergency Medical Personnel.

(a) In this section, "peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

(b) A municipality or a school district or other special purpose district shall provide a municipal or district employee who is a peace officer, fire fighter, or emergency medical services employee with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if:

(1) legal counsel is requested by the employee; and

(2) the suit involves an official act of the employee within the scope of the employee's authority.

(c) To defend the employee against the suit, the municipality or district may provide counsel already employed by it or may employ private counsel.

(d) An employee may recover from a municipality or district that fails to provide counsel as required by Subsection (b) the reasonable attorney's fees incurred in defending the suit if the trier of fact finds:

(1) that the fees were incurred in defending a suit covered by Subsection (b); and

(2) that the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 42(a), effective August 28, 1989; am. Acts 2013, 83rd Leg., ch. 56 (H.B. 1016), § 1, effective May 18, 2013.)

TITLE 8
ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE C
ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 271
PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Subchapter A. Public Property Finance Act

Section
271.001. Short Title.
271.002. Purpose.
271.003. Definitions.
271.004. Real Property and Improvements for School Districts.
271.005. Authority to Contract for Personal Property.
271.006. Compliance with Other Requirements.
271.0065. Additional Competitive Procedures.
271.007. Approved and Registered Contract.
271.008. Authorized Investments.
271.009. Term of Contract.

Subchapter B. Competitive Bidding on Certain Public Works Contracts

271.021. Definitions.
271.022. Exempt Contract.
271.023. Conflict of Laws.
271.024. Competitive Procurement Procedure Applicable to Contract.

SUBCHAPTER A
PUBLIC PROPERTY FINANCE ACT

Sec. 271.001. Short Title.

This subchapter may be cited as the Public Property Finance Act.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 271.002. Purpose.

(a) The legislature finds that the purchase or other acquisition or the use of property by governmental agencies and the financing of those activities are necessary to the efficient and economic operation of government.

(b) This subchapter promotes a public purpose by furnishing governmental agencies with a feasible means to purchase or otherwise acquire, use, and finance public property.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 752 (S.B. 826), § 1, effective August 30, 1993.)

Sec. 271.003. Definitions.

In this subchapter:

(1) "Conservation and reclamation district" means a district or authority organized or operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(2) "Contract" means an agreement entered into under this subchapter but does not mean a contract solely for the construction of improvements to real property.

(3) "Governing body" means the board, council, commission, agency, court, or other body or group that is authorized by law to acquire personal property for each respective governmental agency.

(4) "Governmental agency" means a municipality, county, school district, conservation and reclamation district, hospital organization, or other political subdivision of this state.

(5) "Hospital organization" means a district, authority, board, or joint board organized under the laws of this state for hospital purposes.

(6) "Net effective interest rate" means, with reference to a contract, the interest amount considered by the governing body of a governmental agency to accrue on a contract.

(7) "Net interest cost" means the total of all interest to accrue and come due on a contract through the last date a payment is due on the contract, plus any discount or minus any premium included in the contract price or principal sum.

(8) "Personal property" includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the governing body of the governmental agency to be necessary, useful, or appropriate to one or more purposes of the governmental agency. The term includes all materials and labor incident to the installation of that personal property. The term includes electricity. The term does not include real property.

(9) "School district" means an independent school district, common school district, community college district, junior college district, or regional

college district organized under the laws of this state.

(10) "Improvement" means a permanent building, structure, fixture, or fence that is erected on or affixed to land but does not include a transportable building or structure whether or not it is affixed to land.

(11) "Real property" means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 752 (S.B. 826), § 2, effective August 30, 1993; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 1.37, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 1095 (S.B. 1393), § 1, effective June 17, 2011.)

Sec. 271.004. Real Property and Improvements for School Districts.

(a) The board of trustees of a school district may execute, perform, and make payments under a contract under this Act for the use or purchase or other acquisition of real property or an improvement to real property. If the board proposes to enter into such a contract, the board shall publish notice of intent to enter into the contract not less than 60 days before the date set to approve execution of the contract in a newspaper with general circulation in the district. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but the board shall not publish the first advertisement for bids for construction of improvements until 60 days has expired from the publication of the notice of intent to enter into the contract.

(b) If, within 60 days of the date of publication of the notice of intent required by Subsection (a), a written petition signed by at least five percent of the registered voters of the district is filed with the board of trustees requesting that the board order a referendum on the question of whether the contract should be approved, the board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question.

(c) Except as otherwise provided by this section, the referendum shall be held in accordance with the applicable provisions of the Election Code. The requirement that an election must be held on a uniform election date as prescribed by the Election Code does not apply to an election held under this section.

(d) The contract is a special obligation of the school district if ad valorem taxes are not pledged to the payment of the contract.

(e) If the contract provides that payments by the school district are to be made from maintenance taxes previously approved by the voters of the school district and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered payment of indebtedness under Section 26.04(c), Tax Code.

(f) All or part of the obligation of the school district may be evidenced by one or more negotiable promissory notes.

(g) A lease-purchase contract entered into by the district under this section and the records relating to its execution must be submitted to the attorney general for examination as to their validity.

(h) If the attorney general finds that the contract has been authorized in accordance with the law, the attorney general shall approve them, and the comptroller of public accounts shall register the contract.

(i) Following approval and registration, the contract is incontestable and is a binding obligation according to its terms.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 752 (S.B. 826), § 3, effective August 30, 1993.)

Sec. 271.005. Authority to Contract for Personal Property.

(a) The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof. The contract is an obligation of the governmental agency. The contract may:

(1) be on the terms considered appropriate by the governing body;

(2) be in the form of a lease, a lease with an option or options to purchase, an installment purchase, or any other form considered appropriate by the governing body including that of an instrument which would be required to be approved by the attorney general under Chapter 1202, Government Code, provided that contracts in such form must be approved by the attorney general in accordance with the terms of that chapter;

(3) be for a term approved by the governing body and contain an option or options to renew or extend the term; and

(4) be made payable from a pledge of all or any part of any revenues, funds, or taxes available to the governmental agency for its public purposes.

(b) The governing body of a governmental agency may contract under this section for materials and labor incident to the installation of personal property.

(c) A contract may provide for the payment of interest on the unpaid amounts of the contract at a rate or rates and may contain prepayment provisions, termination penalties, and other provisions determined within the discretion of the governing body. The net effective interest rate on the contract may not exceed the net effective interest rate at which public securities may be issued in accordance with Chapter 1204, Government Code. Interest on the unpaid amounts of a contract shall be computed as simple interest.

(d) Subject only to applicable constitutional restrictions, the governing body may obligate taxes or revenues for the full term of a contract for the payment of the contract.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. by Acts 1991, 72nd Leg., ch. 82 (S.B. 211), § 1, effective May 12, 1991; am. by Acts 1993, 73rd Leg., ch. 104 (H.B. 901), § 3, effective May 7, 1993; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 1.38, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.293, effective September 1, 2001.)

Sec. 271.006. Compliance with Other Requirements.

(a) In entering into the contract, a municipality must comply with the requirements of Chapter 252 and a county must comply with the requirements of Subchapter C, Chapter 262. However, the municipality or county is not required to submit to a referendum the question of entering into the contract.

(b) The purchasing requirements of Section 361.426, Health and Safety Code, apply to a purchase by a governmental agency under this chapter.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. by Acts 1991, 72nd Leg., ch. 303 (S.B. 1340), § 19, effective September 1, 1991.)

Sec. 271.0065. Additional Competitive Procedures.

(a) In any procedure for competitive bidding under this subchapter, the governing body shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A governmental agency shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A governmental agency may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A governmental agency shall accept any bids or proposals submitted in hard-copy format.

(Enacted by Acts 2001, 77th Leg., ch. 1063 (H.B. 1981), § 4, effective September 1, 2001.)

Sec. 271.007. Approved and Registered Contract.

(a) If the governing body approves the contract and the contract provides for the payment of an aggregate amount of $100,000 or more, the governing body may submit the contract and the record relating to the contract to the attorney general for examination as to the validity of the contract. The attorney general shall approve the contract if it has been made in accordance with the constitution and other laws of this state, and the contract then shall be registered by the comptroller of public accounts.

(b) After the contract has been approved and registered as provided by this section, the contract is valid and is incontestable for any cause. The legal obligation of the lessor, vendor, or supplier of personal property or of the person installing personal property to the governmental agency is not diminished in any respect by the approval and registration of the contract.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 1.39, effective September 1, 1999.)

Sec. 271.008. Authorized Investments.

The contract is a legal and authorized investment for:

(1) banks, savings banks, trust companies, and savings and loan associations;

(2) insurance companies;

(3) fiduciaries and trustees; and

(4) the sinking funds of a county, municipality, school district, or other political subdivision or corporation of this state.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 271.009. Term of Contract.

The contract may be for any term not to exceed 25 years.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

SUBCHAPTER B
COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS

Sec. 271.021. Definitions.

In this subchapter:

(1) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(2) "Governmental entity" means:

(A) a county;

(B) a common or independent school district;

(C) a hospital district or authority;

(D) a housing authority; or

(E) an agency or instrumentality of the governmental entities described by Paragraphs (A) through (D).

(3) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(4) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 328 (H.B. 2498), § 15, effective September 1, 1989; am. Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 14, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 13.04, effective August 26, 1991; am. Acts 1997, 75th Leg., ch. 1370 (H.B. 1161), § 1, effective September 1, 1997.)

Sec. 271.022. Exempt Contract.

This subchapter does not affect a contract required to be awarded under Subchapter A, Chapter 2254, Government Code.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(9), effective September 1, 1995.)

Sec. 271.023. Conflict of Laws.

To the extent of any conflict, the provisions of Subchapter B, Chapter 44, Education Code, relating to the purchase of goods and services under contract by a school district prevail over this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 1383 (H.B. 1542), § 2, effective June 19, 1999.)

Sec. 271.024. Competitive Procurement Procedure Applicable to Contract.

If a governmental entity is required by statute to award a contract for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than $50,000 from the funds of the entity, the bidding on the contract must be accomplished in the manner provided by this subchapter.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 749 (S.B. 226), § 2, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 757 (H.B. 1651), § 14, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 115 (H.B. 197), § 5, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 6, effective June 19, 2009.)

Sec. 271.0245. Additional Competitive Procedures.

(a) In the procedure for competitive bidding under this subchapter, the governing body of the governmental entity shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A governmental entity shall receive bids under this subchapter in a fair and confidential manner.

(c) A governmental entity may receive bids under this subchapter in hard-copy format or through electronic transmission. A governmental entity shall accept any bids submitted in hard-copy format.

(Enacted by Acts 2001, 77th Leg., ch. 1063 (H.B. 1981), § 5, effective September 1, 2001.)

Sec. 271.025. Advertisement for Bids.

(a) The governmental entity must advertise for bids. The advertisement for bids must include a notice that:

(1) describes the work;

(2) states the location at which the bidding documents, plans, specifications, or other data may be examined by all bidders; and

(3) states the time and place for submitting bids and the time and place that bids will be opened.

(b) The advertisement must be published as required by law. If no legal requirement for publication exists, the advertisement must be published at least twice in one or more newspapers of general circulation in the county or counties in which the work is to be performed. The second publication must be on or before the 10th day before the first date bids may be submitted.

(c) The governmental entity must mail a notice containing the information required under Subsection (a) to any organization that:

(1) requests in advance that notices for bids be sent to it;

(2) agrees in writing to pay the actual cost of mailing the notice; and

(3) certifies that it circulates notices for bids to the construction trade in general.

(d) The governmental entity shall mail a notice required under Subsection (c) on or before the date the first newspaper advertisement under this section is published.

(e) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1019 (H.B. 1059), § 2, effective August 28, 1989; am. Acts 2001, 77th Leg., ch. 669 (H.B. 2810), § 82, effective September 1, 2001.)

Sec. 271.026. Opening of Bids.

(a) Bids may be opened only by the governing body of the governmental entity at a public meeting or by an officer or employee of the governmental entity at or in an office of the governmental entity. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

(b) This subchapter does not change the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 271.027. Award of Contract.

(a) The governmental entity is entitled to reject any and all bids.

(b) The contract must be awarded to the lowest responsible bidder, but the contract may not be awarded to a bidder who is not the lowest bidder unless before the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 271.0275. Safety Record of Bidder Considered.

In determining who is a responsible bidder, the governmental entity may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

(1) the governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of a bidder;

(2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and

(3) the determinations are not arbitrary and capricious.

(Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 58(d), effective August 28, 1989.)

Sec. 271.028. Effect of Noncompliance.

A contract awarded in violation of this subchapter is void.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 271.029. Criminal Penalties.

(a) An officer or employee of a governmental entity commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of the statute that requires a contract described by Section 271.024 to be awarded on the basis of competitive bids. An offense under this subsection is a Class B misdemeanor.

(b) [Repealed by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 24, effective September 1, 2011.]

(c) An officer or employee of a governmental entity commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor.

(Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 15, effective September 1, 1989; am. Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), §§ 18, 24, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 25 provides: "The changes in law made by this Act apply only to purchases made or a bid deadline that occurs on or after September 1, 2011. A purchase made or a bid deadline that occurs before September 1, 2011, is governed by the law as it existed immediately before the effective date of this Act [September 1, 2011], and that law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 26 provides:

"(a) The changes in law made by this Act to Sections 262.034, 271.029, and 271.064, Local Government Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Sec. 271.030. Removal; Ineligibility [Repealed].

Repealed by Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 24, effective September 1, 2011.

(Enacted by Acts 1989, 71st Leg., ch. 1250 (H.B. 1434), § 16, effective September 1, 1989.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 25 provides: "The changes in law made by this Act apply only to purchases made or a bid deadline that occurs on or after September 1, 2011. A purchase made or a bid deadline that occurs before September 1, 2011, is governed by the law as it existed immediately before the effective date of this Act [September 1, 2011], and that law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 285 (H.B. 1694), § 26(b) provides: "An offense committed before the effective date of this Act [September 1, 2011] is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

SUBCHAPTER D
STATE COOPERATION IN LOCAL PURCHASING PROGRAMS

Sec. 271.081. Definition.

In this subchapter, "local government" means a county, municipality, special district, school district, junior college district, a local workforce development board created under Section 2308.253, Government Code, or other legally constituted political subdivision of the state.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2001, 77th Leg., ch. 1004 (H.B. 936), § 4, effective September 1, 2001.)

Sec. 271.082. Purchasing Program.

(a) The comptroller shall establish a program by which the comptroller performs purchasing services for local governments. The services must include:

(1) the extension of state contract prices to participating local governments when the comptroller considers it feasible;

(2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller and is desired by the local government; and

(3) provision of information and technical assistance to local governments about the purchasing program.

(b) The comptroller may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller in providing purchasing services to the local government under the program.

(c) The comptroller may adopt rules and procedures necessary to administer the purchasing program. Before adopting a rule under this subsection, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b), Government Code, are met.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2007, 80th Leg., ch. 937 (H.B. 3560), § 1.103, effective September 1, 2007.)

Sec. 271.083. Local Government Participation.

(a) A local government may participate in the purchasing program of the commission, including participation in purchases that use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, by filing with the commission a resolution adopted by the governing body of the local government requesting that the local government be allowed to participate on a voluntary basis, and to the extent the commission deems feasible, and stating that the local government will:

(1) designate an official to act for the local government in all matters relating to the program, including the purchase of items from the vendor under any contract, and that the governing body will direct the decisions of the representative;

(2) be responsible for:

(A) submitting requisitions to the commission under any contract; or

(B) electronically sending purchase orders directly to vendors, or complying with commission procedures governing a reverse auction purchase, and electronically sending to the commission reports on actual purchases made under this paragraph that provide the information and are sent at the times required by the commission;

(3) be responsible for making payment directly to the vendor; and

(4) be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

(b) A local government that purchases an item under a state contract or under a reverse auction procedure, as defined by Section 2155.062(d), Government Code, sponsored by the commission satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

(c) [Repealed by Acts 2009, 81st Leg., ch. 393 (H.B. 1705), § 3.07(2), effective September 1, 2009.]

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 428 (S.B. 1369), § 1, effective August 26, 1991; am. Acts 1995, 74th Leg., ch. 746 (H.B. 52), § 6, effective August 28, 1995; am. Acts 1997, 75th

Leg., ch. 494 (S.B. 820), § 5, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 436 (S.B. 221), § 5, effective May 28, 2001; am. Acts 2009, 81st Leg., ch. 393 (H.B. 1705), § 3.07(2), effective September 1, 2009.)

SUBCHAPTER I
ADJUDICATION OF CLAIMS ARISING UNDER WRITTEN CONTRACTS WITH LOCAL GOVERNMENT ENTITIES

Sec. 271.151. Definitions.

In this subchapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract subject to this subchapter for the arbitration proceedings.

(2) "Contract subject to this subchapter" means:

(A) a written contract stating the essential terms of the agreement for providing goods or services to the local governmental entity that is properly executed on behalf of the local governmental entity; or

(B) a written contract, including a right of first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water by a local governmental entity intended for industrial use.

(3) "Local governmental entity" means a political subdivision of this state, other than a county or a unit of state government, as that term is defined by Section 2260.001, Government Code, including a:

(A) municipality;

(B) public school district and junior college district; and

(C) special-purpose district or authority, including any levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, emergency service organization, and river authority.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 1138 (H.B. 3511), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1138 (H.B. 3511), § 4(c) provides: "Sections 271.151(2) and 271.153, Local Government Code, as amended by this Act, apply to a claim that arises under a contract executed on or after the effective date of this Act [June 14, 2013]. A claim that arises under a contract executed before the effective date of this Act is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose."

Sec. 271.152. Waiver of Immunity to Suit for Certain Claims.

A local governmental entity that is authorized by statute or the constitution to enter into a contract and that enters into a contract subject to this subchapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of the contract, subject to the terms and conditions of this subchapter.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

Sec. 271.153. Limitations on Adjudication Awards.

(a) Except as provided by Subsection (c), the total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

(1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

(b) Damages awarded in an adjudication brought against a local governmental entity arising under a contract subject to this subchapter may not include:

(1) consequential damages, except as expressly allowed under Subsection (a)(1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

(c) Actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a local governmental entity for breach of a contract described by Section 271.151(2)(B).

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 8, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 226 (H.B. 345), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1138 (H.B. 3511), § 3, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 226 (H.B. 345), § 2 provides: "The change in law made by this Act applies only to an adjudication commenced on or after the effective date of this Act [September 1, 2011]. An adjudication commenced before the effective date of this Act is governed by the law applicable to the adjudication immediately before the effective date of this Act, and the former law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1138 (H.B. 3511), § 4(c) provides: "Sections 271.151(2) and 271.153, Local Government Code, as amended by this Act, apply to a claim that arises under a contract executed on or after the effective date of this Act [June 14, 2013]. A claim that arises under a contract executed before the effective date of this Act is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose."

Sec. 271.154. Contractual Adjudication Procedures Enforceable.

Adjudication procedures, including requirements for serving notices or engaging in alternative dispute resolution proceedings before bringing a suit or an arbitration proceeding, that are stated in the contract subject to this subchapter or that are established by the local governmental entity and expressly incorporated into the contract or incorporated by reference are enforceable except to the extent those procedures conflict with the terms of this subchapter.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

Sec. 271.155. No Waiver of Other Defenses.

This subchapter does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

Sec. 271.156. No Waiver of Immunity to Suit in Federal Court.

This subchapter does not waive sovereign immunity to suit in federal court.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

Sec. 271.157. No Waiver of Immunity to Suit for Tort Liability.

This subchapter does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

Sec. 271.158. No Grant of Immunity to Suit.

Nothing in this subchapter shall constitute a grant of immunity to suit to a local governmental entity.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

Sec. 271.159. No Recovery of Attorney's Fees [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 16, effective June 19, 2009.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 17 provides: "The change in law made by this Act applies only to a claim that arises under a contract executed on or after the effective date of this Act [June 19, 2009]. A claim that arises under a contract executed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 271.160. Joint Enterprise.

A contract entered into by a local government entity is not a joint enterprise for liability purposes.

(Enacted by Acts 2005, 79th Leg., ch. 604 (H.B. 2039), § 1, effective September 1, 2005.)

SUBCHAPTER Z
MISCELLANEOUS PROVISIONS

Sec. 271.901. Procedure for Awarding Contract If Municipality or District Receives Identical Bids.

(a) If a municipality or district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.

(b) If only one of the bidders submitting identical bids is a resident of the municipality or district, the municipality or district must select that bidder. If two or more of the bidders submitting identical bids are residents of the municipality or district, the municipality or district must select one of those bidders by the casting of lots. In all other cases, the municipality or district must select from the identical bids by the casting of lots.

(c) The casting of lots must be in a manner prescribed by the mayor of the municipality or the

governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots.

(d) This section does not prohibit a municipality or district from rejecting all bids.

(e) This section applies to all municipalities and districts required by general or special law or by municipal ordinance or charter to accept bids and award contracts on the basis of the lowest and best bid, but does not apply to bidding for contracts to act as a depository for public funds or as a depository for school funds under Subchapter G, Chapter 45, Education Code.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 62(a), effective August 28, 1989; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.71, effective September 1, 1997.)

Sec. 271.902. Prohibition of Conflict of Interest in Purchase by Municipality or County from Cooperative Associations.

If a member of the governing body or an appointed board or commission of a municipality or county belongs to a cooperative association, the municipality or county may purchase equipment or supplies from the association only if no member of the governing body, board, or commission will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987.)

Sec. 271.903. Commitment of Current Revenue.

(a) If a contract for the acquisition, including lease, of real or personal property retains to the governing body of a local government the continuing right to terminate at the expiration of each budget period of the local government during the term of the contract, is conditioned on a best efforts attempt by the governing body to obtain and appropriate funds for payment of the contract, or contains both the continuing right to terminate and the best efforts conditions, the contract is a commitment of the local government's current revenues only.

(b) In this section, "local government" means a municipality, county, school district, special purpose district or authority, or other political subdivision of this state.

Sec. 271.904. Indemnification.

(a) A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify, hold harmless, or defend the governmental agency against liability for damage, other than liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

(b) In this section, "governmental agency" has the meaning assigned by Section 271.003.

(Enacted by Acts 1995, 74th Leg., ch. 746 (H.B. 52), § 8, effective August 28, 1995; am. Acts 2001, 77th Leg., ch. 351 (S.B. 561), § 5, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 1213 (H.B. 1886), § 8, effective September 1, 2007.)

Sec. 271.905. Consideration of Location of Bidder's Principal Place of Business.

(a) In this section, "local government" means a municipality, a county, or another political subdivision authorized under this title to purchase real property or personal property that is not affixed to real property. The term does not include a school district.

(b) In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

(c) This section does not prohibit a local government from rejecting all bids.

(Enacted by Acts 1999, 76th Leg., ch. 996 (H.B. 2787), § 1, effective August 30, 1999; am. Acts 2001, 77th Leg., ch. 480 (H.B. 969), § 1, effective September 1, 2001; am. Acts 2011, 82nd Leg., ch. 513 (H.B. 1869), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 513 (H.B. 1862) § 3 provides: "The changes in law made by this Act apply only to a contract for which the initial notice soliciting bids is given on or after the effective date of this Act [June 17, 2011]. A contract for which the initial notice soliciting bids is given before that date is governed by the law in effect when the initial notice is given, and the former law is continued in effect for that purpose."

Sec. 271.9051. Consideration of Location of Bidder's Principal Place of Business in Certain Municipalities.

(a) This section applies only to a municipality that is authorized under this title to purchase real property or personal property that is not affixed to real property.

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount of less than $100,000 or a contract for other purchases in an amount of less than $500,000 with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

(c) This section does not prohibit a municipality from rejecting all bids.

(d) This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

(Enacted by Acts 2005, 79th Leg., ch. 1205 (H.B. 664), § 1, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 660 (H.B. 2082), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1266 (H.B. 987), § 9, effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 513 (H.B. 1869), § 2, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 2.12, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 513 (H.B. 1862) § 3 provides: "The changes in law made by this Act apply only to a contract for which the initial notice soliciting bids is given on or after the effective date of this Act [June 17, 2011]. A contract for which the initial notice soliciting bids is given before that date is governed by the law in effect when the initial notice is given, and the former law is continued in effect for that purpose."

Acts 2011, 82nd Leg., ch. 1129 (H.B. 628), § 6.01 provides:

"(a) The changes in law made by this Act apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act [September 1, 2011].

(b) A contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

Sec. 271.906. Reverse Auction Method of Purchasing.

(a) A local government, as defined by Section 271.081, may use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, in purchasing goods and services in place of any other method of purchasing that would otherwise apply to the purchase.

(b) A local government that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the local government and fair to vendors.

(Enacted by Acts 2001, 77th Leg., ch. 436 (S.B. 221), § 6, effective May 28, 2001.)

Sec. 271.907. Vendors That Meet or Exceed Air Quality Standards.

(a) In this section, "governmental agency" has the meaning assigned by Section 271.003.

(b) This section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are defined by Section 386.001, Health and Safety Code.

(c) A governmental agency procuring goods or services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

(d) The preference may be given only if the cost to the governmental agency for the goods or services would not exceed 105 percent of the cost of the goods or services provided by a vendor who does not meet the standards.

(Enacted by Acts 2003, 78th Leg., ch. 1331 (H.B. 1365), § 20, effective June 22, 2003; am. Acts 2003, 78th Leg., 3rd C.S., ch. 3 (H.B. 7), § 14.02, effective January 11, 2004; am. Acts 2003, 78th Leg., 3rd C.S., ch. 11 (H.B. 37), § 2, effective October 20, 2003.)

Sec. 271.908. Local Government Contracts with Private Entities for Civil Works Projects and Improvements to Real Property.

(a) In this section, "civil works project" and "local governmental entity" have the meanings assigned by Section 271.181.

(b) A local governmental entity may contract with a private entity to act as the local governmental entity's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of:

(1) a civil works project; or

(2) an improvement to real property.

(c) A local governmental entity contracting under this section shall:

(1) select the private entity based on the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) The selected private entity shall comply with:

(1) Chapters 1001 and 1051, Occupations Code;

(2) all laws relating to procurement of professional services under Chapter 2254, Government Code; and

(3) all laws relating to procurement under this chapter that apply to the local governmental entity that selected the private entity.

(Enacted by Acts 2011, 82nd Leg., ch. 1024 (H.B. 2729), § 1, effective June 17, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1024 (H.B. 2729), § 2 provides: "This Act applies only to a contract entered into on or after the effective date of this Act [June 17, 2011]. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose."

CHAPTER 272
SALE OR LEASE OF PROPERTY BY MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Section

Sec. 272.001. Notice of Sale or Exchange of Land by Political Subdivision; Exceptions.

(a) Except for the types of land and interests covered by Subsection (b), (g), (h), (i), (j), or (*l*), and except as provided by Section 253.008, before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.

(b) The notice and bidding requirements of Subsection (a) do not apply to the types of land and real property interests described by this subsection and owned by a political subdivision. The land and those interests described by this subsection may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple. The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest or, in the case of land or an interest owned by a home-rule municipality, the fair market value may be determined by the price obtained by the municipality at a public auction for which notice to the general public is published in the manner described by Subsection (a). The notice of the auction must include, instead of the content required by Subsection (a), a description of the land, including its location, the date, time, and location of the auction, and the procedures to be followed at the auction. The appraisal or public auction price is conclusive of the fair market value of the land or interest, regardless of any contrary provision of a home-rule charter. This subsection applies to:

(1) narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;

(2) streets or alleys, owned in fee or used by easement;

(3) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;

(4) land that the political subdivision wants to have developed by contract with an independent foundation;

(5) a real property interest conveyed to a governmental entity that has the power of eminent domain;

(6) a municipality's land that is located in a reinvestment zone designated as provided by law and that the municipality desires to have developed under a project plan adopted by the municipality for the zone; or

(7) a property interest owned by a defense base development authority established under Chapter 378, Local Government Code, as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999.

(c) The land or interests described by Subsections (b)(1) and (2) may be sold to:

(1) abutting property owners in the same subdivision if the land has been subdivided; or

(2) abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

(d) This section does not require the governing body of a political subdivision to accept any bid or offer or to complete a sale or exchange.

(e) This section does not apply to land in the permanent school fund that is authorized by legislation to be exchanged for other land of at least equal value.

(f) The fair market value of land, an easement, or other real property interest in exchange for land, an easement, or other real property interest as authorized by Subsection (b)(3) is conclusively determined by an appraisal obtained by the political subdivision. The cost of any streets, utilities, or other improvements constructed on the affected land or to be constructed by an entity other than the political subdivision on the affected land may be considered in determining that fair market value.

(g) A political subdivision may acquire or assemble land or real property interest, except by condemnation, and sell, exchange, or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing. The political subdivision shall determine the terms and conditions of the transactions so as to effectuate and maintain the public purpose. If conveyance of land under this subsection serves a public purpose, the land may be conveyed for less than its fair market value. In this subsection, "entity" means an individual, corporation, partnership, or other legal entity.

(h) A municipality having a population of 825,000 or less and owning land within 5,000 feet of where the shoreline of a lake would be if the lake were filled to its storage capacity may, without notice or the solicitation of bids, sell the land to the person leasing the land for the fair market value of the land as determined by a certified appraiser. While land described by this subsection is under lease, the municipality owning the land may not sell the land to any person other than the person leasing the land. To protect the public health, safety, or welfare and to ensure an adequate municipal water supply, property sold by the municipality under this subsection is not eligible for and the owner is not entitled to the exemption provided by Section 11.142(a), Water Code. The instrument conveying property under this subsection must include a provision stating that the exemption does not apply to the conveyance. In this subsection, "lake" means an inland body of standing water, including a reservoir formed by impounding the water of a river or creek but not including an impoundment of salt water or brackish water, that has a storage capacity of more than 10,000 acre-feet.

(i) A political subdivision that acquires land or a real property interest with funds received for economic development purposes from the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) may lease or convey the land or interest, without the solicitation of bids, to a private, for-profit entity or a nonprofit entity that is a party to a contract with the political subdivision if the land or interest will be used by the private, for-profit entity or the nonprofit entity in carrying out the purpose of the entity's grant or contract. The land or interest may be leased or conveyed without the solicitation of bids if the political subdivision adopts a resolution stating the conditions and circumstances for the lease or conveyance and the public purpose that will be achieved by the lease or conveyance.

(j) A political subdivision may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property to an institution of higher education, as that term is defined by Section 61.003, Education Code, to promote a public purpose related to higher education. The political subdivision shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. A political subdivision may donate, exchange, convey, sell, or lease the real property interest for less than its fair market value and without complying with the notice and bidding requirements of Subsection (a).

(k) This section does not apply to sales or exchanges of land owned by a municipality operating a municipally owned electric or gas utility if the land is held or managed by the municipally owned utility, or by a division of the municipally owned electric or gas utility that constitutes the unbundled electric or gas operations of the utility, provided that the governing body of the municipally owned utility shall adopt a resolution stating the conditions and circumstances for the sale or exchange and the public purpose that will be achieved by the sale or ex-

change. For purposes of this subsection, "municipally owned utility" includes a river authority engaged in the generation, transmission, or distribution of electric energy to the public, and "unbundled" operations are those operations of the utility that have, in the discretion of the utility's governing body, been functionally separated.

(*l*) The notice and bidding requirements provided by Subsection (a) do not apply to a donation or sale made under this subsection. A political subdivision may donate or sell for less than fair market value a designated parcel of land or an interest in real property to another political subdivision if:

(1) the land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling political subdivision;

(2) the donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and

(3) the title and right to possession of the land or interest revert to the donating or selling political subdivision if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 63(a), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 1243 (S.B. 889), § 1, effective August 28, 1989; am. Acts 1991, 72nd Leg., ch. 282 (S.B. 663), § 1, effective June 6, 1991; am. Acts 1993, 73rd Leg., ch. 110 (H.B. 824), § 1, effective August 30, 1993; am. Acts 1993, 73rd Leg., ch. 206 (H.B. 647), § 2, effective August 30, 1993; am. Acts 1993, 73rd Leg., ch. 429 (H.B. 1091), § 1, effective August 30, 1993; am. Acts 1993, 73rd Leg., ch. 509 (H.B. 2125), § 1, effective August 30, 1993; am. Acts 1993, 73rd Leg., ch. 948 (H.B. 1858), § 1, effective August 30, 1993; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 17.01(40), effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 311 (H.B. 2078), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 53 (H.B. 1296), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 296 (S.B. 1289), § 1, effective May 29, 1999; am. Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 43, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 451 (S.B. 1290), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 968 (H.B. 2572), § 1, effective June 18, 1999; am. Acts 2001, 77th Leg., ch. 1030 (H.B. 1490), § 1, effective June 15, 2001; am. Acts 2001, 77th Leg., ch. 1121 (H.B. 2544), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 12.109(a), (b), effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 179 (H.B. 655), § 1, effective May 29, 2003; am. Acts 2011, 82nd Leg., ch. 329 (H.B. 2690), § 1, effective June 17, 2011; am. Acts 2011, 82nd Leg., ch. 726 (H.B. 844), § 1, effective June 17, 2011.)

TITLE 9
PUBLIC BUILDINGS AND GROUNDS

SUBTITLE C
PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 303
PUBLIC FACILITY CORPORATIONS

Subchapter A. General Provisions

Subchapter B. Creation and Operation of Public Facility Corporation

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 303.001. Short Title.

This chapter may be cited as the Public Facility Corporation Act.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.002. Purpose; Construction.

(a) The purpose of this chapter is to authorize the creation and use of public facility corporations with the broadest possible powers to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs.

(b) The legislature intends that a corporation created under this chapter be a public corporation, constituted authority, and instrumentality authorized to issue bonds on behalf of its sponsor for the purposes of Section 103, Internal Revenue Code of 1986 (26 U.S.C. Section 103). This chapter and the rules and rulings issued under this chapter shall be construed according to this intent.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.003. Definitions.

In this chapter:

(1) "Board of directors" means the board of directors of a corporation.

(2) "Bonds" includes notes, interim certificates, or other evidences of indebtedness of a corporation issued or incurred under this chapter.

(3) "Corporation" means a public facility corporation created and existing under this chapter.

(4) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase bonds or sponsor obligations, purchase or sale agreement, or commitment or other contract or agreement authorized and approved by the board of directors of a corporation in connection with the authorization, issuance, incurrence, sale, security, exchange, payment, purchase, or redemption of bonds or interest on bonds.

(5) "Director" means a member of a board of directors.

(6) "Housing authority" means a public corporation created under Chapter 392.

(7) "Public facility" means any real, personal, or mixed property, or an interest in property devoted or to be devoted to public use, and authorized to be financed, refinanced, or provided by sponsor obligations.

(8) "Resolution" means a resolution, order, ordinance, or other official action by the governing body of a sponsor.

(9) "School district" means a political subdivision created under Section 3, Article VII, Texas Constitution.

(10) "Special district" means:

(A) a district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(B) a hospital district or authority; or

(C) a junior college district authorized by Chapter 130, Education Code.

(11) "Sponsor" means a municipality, county, school district, housing authority, or special district that causes a corporation to be created to act in accordance with this chapter.

(12) "Sponsor obligation" means an evidence of indebtedness or obligation that a sponsor issues or incurs to finance, refinance, or provide a public facility, including bonds, notes, warrants, certificates of obligation, leases, and contracts authorized by Section 303.041 and Subchapter C.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.004. Adoption of Alternate Procedure in Case of Constitutional Violation.

If a court holds that a procedure under this chapter violates the federal or state constitution, a corporation or its sponsor by resolution may provide an alternate procedure that conforms to the constitution.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.005. Effect of Chapter on Other Law.

(a) This chapter does not limit the police power provided by law to this state or a municipality or other political subdivision of this state, or an official or agency of this state or of a municipality or other political subdivision of this state, over property of a corporation.

(b) A sponsor or corporation may use other law not in conflict with this chapter to the extent convenient or necessary to carry out a power expressly or impliedly granted by this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.006. Limitation of Chapter.

This chapter does not authorize a sponsor to issue a sponsor obligation, use a letter of credit, or mortgage a public facility.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.007. Natural Gas As Public Facility.

Natural gas purchased by a corporation for resale to a local government under an interlocal cooperation contract described by Section 791.025, Government Code, between the sponsor and the local government is considered a public facility for the purposes of this chapter.

(Enacted by Acts 2013, 83rd Leg., ch. 767 (S.B. 1063), § 1, effective June 14, 2013.)

SUBCHAPTER B
CREATION AND OPERATION OF PUBLIC FACILITY CORPORATION

Sec. 303.021. Authority to Create.

(a) A sponsor may create one or more nonmember, nonstock, nonprofit public facility corporations to:

(1) issue bonds under this chapter to purchase sponsor obligations;

(2) finance public facilities on behalf of its sponsor; or

(3) loan the proceeds of the obligations to other entities to accomplish the purposes of the sponsor.

(b) A sponsor may use the corporation to:

(1) acquire, construct, rehabilitate, renovate, repair, equip, furnish, or place in service public facilities; or

(2) issue bonds on the sponsor's behalf to finance the costs of the public facilities.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.022. Creation Under Other Law.

A nonprofit corporation created by a housing authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is considered a corporation under this chapter and has the rights and powers necessary or convenient to accomplish a corporation's purposes under this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.023. Procedure.

A governing body of a sponsor that determines that it is in the public interest and to the benefit of the sponsor's residents and the citizens of this state that a corporation be created to finance, refinance, or provide the costs of public facilities of the sponsor may by resolution stating that determination:

(1) authorize and approve the creation of a corporation to act on behalf of the sponsor; and

(2) approve proposed articles of incorporation for the corporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.024. Articles of Incorporation.

(a) The articles of incorporation of the corporation must include:

(1) the corporation's name;

(2) a statement that the corporation is a nonprofit public corporation;

(3) the duration of the corporation, which may be perpetual;

(4) a statement that the purpose of the corporation is to assist its sponsor in financing, refinancing, or providing public facilities;

(5) a statement that the corporation has no members and is a nonstock corporation;

(6) the street address of the corporation's initial registered office and the name of its initial registered agent at that address;

(7) the number of directors on the initial board of directors and those directors' names and addresses;

(8) each incorporator's name and street address;

(9) the sponsor's name and address; and

(10) a statement that the sponsor has specifically authorized the corporation to act on its behalf to further the public purpose set forth in the articles of incorporation and has approved the articles of incorporation.

(b) The corporate powers listed in this chapter are not required to be included in the articles of incorporation.

(c) The articles of incorporation may include provisions for the regulation of the internal affairs of the corporation, including a provision required or permitted by this chapter to be in the bylaws.

(d) Unless the articles of incorporation provide that a change in the number of directors may be made only by amendment to those articles, a change may be made by amendment to the bylaws.

(e) A provision of the articles of incorporation that requires the vote or concurrence of a greater proportion of the board of directors than this chapter controls over this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.025. Certificate of Incorporation; Beginning of Corporate Existence.

(a) The incorporators shall deliver to the secretary of state the original and two copies of the articles of incorporation and a certified copy of the resolution of the sponsor's governing body approving the articles of incorporation.

(b) If the secretary of state finds that the articles of incorporation comply with this chapter and have been approved by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and each copy of the articles of incorporation and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two certificates of incorporation with a copy of the articles of incorporation attached to each.

(c) The secretary of state shall deliver a certificate of incorporation, with a copy of the articles of incorporation attached, to the incorporators or their representatives and to the sponsor's governing body.

(d) The corporation's existence begins on issuance of the certificate of incorporation.

(e) The certificate of incorporation is conclusive evidence that all conditions precedent required to be performed by the incorporators and by the sponsor have been performed and that the corporation has been incorporated under this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.026. Organizational Meeting.

(a) After issuance of the certificate of incorporation and at the call of a majority of the incorporators, the board of directors named in the articles of incorporation shall hold an organizational meeting in this state to adopt bylaws, to elect officers, and for any other purpose.

(b) Not later than the sixth day before the date of the meeting, the incorporators shall mail, postage prepaid, notice to each director of the time and place of the meeting.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.027. Amendment of Articles of Incorporation.

(a) Articles of incorporation may be amended to contain a provision that is lawful under this chapter if the sponsor's governing body by appropriate resolution determines that the amendment is advisable and authorizes or directs that an amendment be made.

(b) The corporation's president or vice president and the secretary or clerk of the sponsor's governing body shall execute articles of amendment on behalf of the corporation. An officer signing the articles of amendment shall verify those articles.

(c) The articles of amendment must include:

(1) the name of the corporation;

(2) if the amendment alters a provision of the original or amended articles of incorporation, an identification by reference or description of the altered provision and a statement of its text as amended;

(3) if the amendment is an addition to the original or amended articles of incorporation, a statement of that fact and the full text of each provision;

(4) the name and address of the sponsor;

(5) a statement that the amendment was authorized by the sponsor's governing body; and

(6) the date of the meeting at which the governing body adopted or approved the amendment.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.028. Certificate of Amendment.

(a) The original and two copies of the articles of amendment and a certified copy of the resolution of the sponsor's governing body authorizing the articles shall be delivered to the secretary of state.

(b) If the secretary of state finds that the articles of amendment comply with this chapter and are authorized by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and on each copy of the articles of amendment and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two certificates of amendment with a copy of the articles of amendment attached to each.

(c) The secretary of state shall deliver to the corporation or its representative and to the sponsor's governing body a certificate of amendment with a copy of the articles of amendment attached.

(d) The amendment to the articles of incorporation takes effect on issuance of the certificate of amendment.

(e) An amendment does not affect an existing cause of action in favor of or against the corporation, a pending suit to which the corporation is a party, or an existing right of a person. Change of the corporate name by amendment does not abate a suit brought by or against the corporation under its former name.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.029. Restated Articles of Incorporation.

(a) A corporation may authorize, execute, and file restated articles of incorporation by following the procedure to amend articles of incorporation, including obtaining authorization from the sponsor's governing body.

(b) The restated articles of incorporation must restate the entire text of the articles of incorporation as amended or supplemented by all previous certificates of amendment. The restated articles of incorporation may also contain further amendments to the articles of incorporation.

(c) Unless the restated articles of incorporation include amendments that were not previously in the articles of incorporation and previous certificates of amendment, the introductory paragraph of the restated articles of incorporation must contain a statement that the instrument accurately copies the articles of incorporation and all amendments that are in effect on the date of filing without further changes, except that:

(1) the number of directors then constituting the board of directors and those directors' names and addresses may be inserted in place of the similar information concerning the initial board of directors; and

(2) the incorporators' names and addresses may be omitted.

(d) If the restated articles of incorporation contain further amendments not included in the articles of incorporation and previous certificates of amendment, the instrument containing the restated articles of incorporation must:

(1) include for each further amendment a statement that the amendment has been made in conformity with this chapter;

(2) include the statements required by this chapter to be contained in articles of amendment, except that the full text of the amendment need not be included except in the restated articles of incorporation;

(3) contain a statement that the instrument accurately copies the articles of incorporation and all previous amendments in effect on the date of the filing, as further amended by the restated articles of incorporation, and that the instrument does not contain any other change, except that:

(A) the number of directors then constituting the board of directors and those directors' names and addresses may be inserted in place of the similar information concerning the initial board of directors; and

(B) the incorporators' names and addresses may be omitted; and

(4) restate the entire text of the articles of incorporation as amended and supplemented by all previous certificates of amendment and as further amended by the restated articles of incorporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.030. Restated Certificate of Incorporation.

(a) The original and two copies of the restated articles of incorporation and a certified copy of the resolution of the sponsor's governing body authorizing the articles shall be delivered to the secretary of state.

(b) If the secretary of state finds that the restated articles of incorporation comply with this chapter and have been authorized by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and each copy of the restated articles of incorporation and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two restated certificates of incorporation with a copy of the restated articles of incorporation attached to each.

(c) The secretary of state shall deliver a restated certificate of incorporation, with a copy of the restated articles of incorporation attached, to the corporation or its representative and to the sponsor's governing body.

(d) On the issuance by the secretary of state of the restated certificate of incorporation, the original articles of incorporation and all amendments are superseded, and the restated articles of incorporation become the corporation's articles of incorporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.031. Registered Office and Agent.

(a) A corporation shall continuously maintain a registered office and registered agent in this state.

(b) The registered office shall be the same as the corporation's principal office. The registered agent may be:

(1) an individual resident of this state whose business office is the same as the registered office; or

(2) a domestic or foreign profit or nonprofit corporation that is authorized to transact business or conduct affairs in this state and that has a principal or business office that is the same as the registered office.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.032. Change of Registered Office or Agent.

(a) A corporation may change its registered office, registered agent, or both by filing the original and a copy of a statement in the office of the secretary of state. The president or vice president of the corporation shall execute and verify the statement.

(b) The statement must include:

(1) the corporation's name;

(2) the post office address of the corporation's current registered office;

(3) if the registered office is to be changed, the post office address of the corporation's new registered office;

(4) the name of the corporation's registered agent;

(5) if the registered agent is to be changed, the name of the successor registered agent;

(6) a statement that, after the change, the post office address of the registered office will be the same as the post office address of the business office of the registered agent; and

(7) a statement that the change was authorized by the board of directors or by a corporate officer authorized by the board of directors to make the change.

(c) If the secretary of state finds that the statement complies with this chapter, the secretary of state, when all fees have been paid as required by this chapter, shall:

(1) write "filed" on the original and each copy of the statement and the month, day, and year of the filing;

(2) file the original statement in the office of the secretary of state; and

(3) return the copy of the statement to the corporation or its representative.

(d) The change made by the statement takes effect on the filing of the statement.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.033. Resignation of Registered Agent.

(a) A registered agent of a corporation may resign by:

(1) mailing or delivering written notice to the corporation; and

(2) filing the original and two copies of the notice in the office of the secretary of state not later than the 10th day after the date the notice is mailed or delivered to the corporation.

(b) The notice must include:

(1) the corporation's last known address;

(2) a statement that written notice was given to the corporation; and

(3) the date the written notice was given to the corporation.

(c) If the secretary of state finds that the notice complies with this chapter, the secretary of state, on payment of all fees required by this chapter, shall:

(1) write "filed" on the original notice and both copies and the month, day, and year of the filing;

(2) file the original notice in the office of the secretary of state;

(3) return one copy of the notice to the resigning registered agent; and

(4) deliver one copy of the notice to the corporation at the address shown in the notice.

(d) The resignation takes effect on the 31st day after the date the notice is received by the secretary of state.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.034. Agents for Service.

(a) The president, each vice president, and the registered agent of a corporation are the corporation's agents on whom a process, notice, or demand required or permitted by law to be served on the corporation may be served.

(b) If a corporation does not appoint or maintain a registered agent in this state or if the registered agent cannot with reasonable diligence be found at the registered office, the secretary of state is an agent of the corporation on whom a process, notice, or demand may be served.

(c) The secretary of state may be served by delivering two copies of the process, notice, or demand to the secretary of state, the deputy secretary of state, or a clerk in charge of the corporation department of the secretary of state's office. The secretary of state shall immediately forward one copy of the process, notice, or demand by registered mail to the corporation at its registered office.

(d) Service on the secretary of state is returnable not earlier than the 30th day after the date of service.

(e) The secretary of state shall keep a record of each process, notice, and demand served, including the time of the service and the action of the secretary of state in reference to the process, notice, or demand.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 41 (H.B. 297), § 3, effective September 1, 2005.)

Sec. 303.035. Board.

(a) A corporation's affairs are governed by a board of directors composed of at least three individuals appointed by the sponsor's governing body. Directors may be divided into classes.

(b) A director serves for a term of not more than six years. The terms of directors of different classes may be of different lengths.

(c) A director holds office for the term to which the director is appointed and until a successor is appointed and has qualified.

(d) The sponsor's governing body may remove a director for cause or at any time without cause.

(e) A director serves without compensation but is entitled to reimbursement for actual expenses incurred in the performance of duties under this chapter.

(f) A director has the same immunity from liability as is granted under the laws of this state to a member of the sponsor's governing body if the director was acting in good faith and in the course and scope of the duties or functions within the corporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.103(a), effective September 1, 2001.)

Sec. 303.036. Officers.

(a) The officers of a corporation are:

(1) the president, vice president, and secretary; and

(2) other officers, including a treasurer, and assistant officers considered necessary.

(b) An officer is elected or appointed at the time, in the manner, and for the term provided by the articles of incorporation or bylaws, except that an officer's term may not exceed three years. If the articles of incorporation or bylaws do not contain those requirements, the board of directors shall elect or appoint each officer annually.

(c) A person may simultaneously hold more than one office, except that the same person may not simultaneously hold the offices of president and secretary.

(d) An officer may be removed by the persons authorized to elect or appoint the officer if those persons believe the best interests of the corporation will be served by the removal.

(e) A director who is a member of the governing body or an officer or employee of the sponsor is eligible to serve as an officer of the corporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.037. Indemnification.

(a) Except as provided by Subsection (c), a corporation may indemnify a director, officer, employee, or agent or former director, officer, employee, or agent for expenses and costs, including attorney's fees, actually or necessarily incurred by the person in connection with a claim asserted against the person, by action in court or another forum, because of the person's being or having been a director, officer, employee, or agent.

(b) Except as provided by Subsection (c), if a corporation has not fully indemnified a director, officer, employee, or agent of the corporation under Subsection (a), the court in a proceeding in which a claim is asserted against the director, officer, employee, or agent of the corporation or a court having jurisdiction over an action brought by the director, officer, employee, or agent on a claim for indemnity may assess indemnity against the corporation or its receiver or trustee. The assessment must equal:

(1) the amount that the director, officer, employee, or agent paid to satisfy the judgment or compromise the claim, not including any amount paid the corporation; and

(2) to the extent the court considers reasonable and equitable, the expenses and costs, including attorney's fees, actually and necessarily incurred by the director, officer, employee, or agent in connection with the claim.

(c) A corporation may not provide indemnity in a matter if the director, officer, employee, or agent is guilty of negligence or misconduct in relation to the matter. A court may not assess indemnity unless it finds that the director, officer, employee, or agent was not guilty of negligence or misconduct in relation to the matter in which indemnity is sought.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.038. Bylaws.

(a) The board of directors shall adopt a corporation's initial bylaws and may amend or repeal the bylaws or adopt new bylaws. The bylaws and each amendment and repeal of the bylaws must be approved by the sponsor's governing body by resolution.

(b) The bylaws may contain any provision for the regulation and management of the corporation's affairs consistent with law and the articles of incorporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.039. Committees.

(a) If permitted by the articles of incorporation or bylaws, the board of directors, by resolution adopted by a majority of directors in office, may designate one or more committees consisting of two or more directors to exercise the board's authority in the management of the corporation to the extent provided by the resolution, articles of incorporation, or bylaws. The designation of a committee or delegation of authority to a committee does not relieve the board of directors or an individual director of a responsibility imposed by law.

(b) Other committees not exercising the authority of the board of directors in the management of the corporation may be designated. The composition of those committees may be limited to directors, and the committee members shall be designated and appointed by:

(1) the board of directors by resolution; or

(2) the president, if authorized by the articles of incorporation, the bylaws, or a resolution of the board of directors.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.040. Meetings; Quorum.

(a) A regular or special meeting of the board of directors must be called and held as provided by the bylaws. A regular or special meeting may be held at any location in this state.

(b) A director's attendance at a meeting waives notice to the director of the meeting, unless the attendance is for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) A quorum is the lesser of:

(1) a majority of the number of directors established by the bylaws or, if the bylaws do not establish a number of directors, a majority of the number of directors stated in the articles of incorporation; or

(2) the number of directors, not less than three, established as a quorum by the articles of incorporation or bylaws.

(d) The act of a majority of the directors present at a meeting at which a quorum is present is an act of the board of directors, unless the act of a larger number is required by the articles of incorporation or bylaws.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.041. Corporation's General Powers.

(a) Subject to Section 303.045, a corporation has the rights and powers necessary or convenient to accomplish the corporation's purposes, including the power to:

(1) acquire title to a public facility in order to lease, convey, or dispose of the public facility to the corporation's sponsor or, on direction of the sponsor and in furtherance of the sponsor's purposes, to another entity;

(2) accept a mortgage or pledge of a public facility financed, refinanced, or provided by sponsor obligations purchased by the corporation and, as security for the payment of any connected bonds or credit agreements that the corporation issues or incurs:

(A) assign the mortgage or pledge and the revenue and receipts from the mortgage or pledge and from the sponsor obligations; or

(B) grant other security;

(3) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of the corporation's property and other assets, including sponsor obligations;

(4) make a contract, incur a liability, and borrow money at interest;

(5) lend money for its corporate purposes, invest its money, and take and hold security for the payment of money loaned or invested;

(6) sue and be sued in its corporate name;

(7) appoint agents of the corporation and determine their duties; and

(8) have a corporate seal and use the seal by having it or a facsimile of it impressed on, affixed to, or reproduced on an instrument required or authorized to be executed by the corporation's proper officers.

(b) Subsection (a) does not authorize a corporate officer or director to exercise a power specified in that subsection in a manner that is inconsistent with the corporation's articles of incorporation or bylaws or beyond the scope of the corporation's purposes.

(c) A sponsor may not delegate to a corporation the power of taxation or eminent domain, a police power, or an equivalent sovereign power of this state or the sponsor.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.042. Taxation.

(a) A public facility, including a leasehold estate in a public facility, that is owned by a corporation and that, except for the purposes and nonprofit nature of the corporation, would be taxable to the corporation under Title 1, Tax Code, shall be assessed to the user of the public facility to the same extent and subject to the same exemptions from taxation as if the user owned the public facility. If there is more than one user of the public facility, the public facility shall be assessed to the users in proportion to the value of the rights of each user to occupy, operate, manage, or use the public facility.

(b) The user of a public facility is considered the owner of the facility for purposes of the application of:

(1) sales and use taxes in the construction, sale, lease, or rental of the public facility; and

(2) other taxes imposed by this state or a political subdivision of this state.

(c) A corporation is engaged exclusively in performance of charitable functions and is exempt from taxation by this state or a municipality or other political subdivision of this state. Bonds issued by a corporation under this chapter, a transfer of the bonds, interest on the bonds, and a profit from the sale or exchange of the bonds are exempt from taxation by this state or a municipality or other political subdivision of this state.

(d) An exemption under this section for a multifamily residential development which is owned by a public facility corporation created by a housing authority under this chapter and which does not have at least 20 percent of its units reserved for public housing units, applies only if:

(1) the housing authority holds a public hearing, at a regular meeting of the authority's governing body, to approve the development; and

(2) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median family income.

(e) For the purposes of Subsection (d), a "public housing unit" is a dwelling unit for which the landlord receives a public housing operating subsidy. It does not include a unit for which payments are made to the landlord under the federal Section 8 Housing Choice Voucher Program.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1493 (S.B. 929), § 1, effective August 31, 2002.)

Sec. 303.043. Net Earnings.

No part of a corporation's net earnings remaining after payment of its bonds and expenses in accomplishing its public purpose may benefit a person other than the sponsor of the corporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.044. Open Meetings; Open Records.

A corporation and its board of directors are considered to be governmental bodies under Chapters 551 and 552, Government Code.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.045. Alteration of Corporation or Activities.

The sponsor of a corporation, in its sole discretion, may alter the corporation's structure, organization, programs, or activities, consistent with the other provisions of this chapter and subject to limitations provided by law relating to the impairment of contracts entered into by the corporation.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.046. Examination of Books and Records.

A representative of the sponsor may examine all books and other records of the corporation at any time.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.047. Waiver of Notice.

If a notice is required to be given to a director by this chapter, the articles of incorporation, or the

bylaws, a written waiver of the notice signed by the person entitled to the notice, before or after the time that would have been stated in the notice, is equivalent to giving the notice.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

SUBCHAPTER C
BONDS

Sec. 303.071. Authority to Issue.

With the specific approval by resolution of the governing body of its sponsor, a corporation may issue or incur bonds, including refunding bonds, to finance, refinance, or provide one or more public facilities.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.072. Source of Payment.

(a) Bonds of a corporation are payable from revenue derived from public facilities or sponsor obligations. Bonds issued under this chapter are not an obligation or a pledge of the faith and credit of this state, a sponsor or other political subdivision of this state, or an agency of this state.

(b) Each bond must contain on its face a statement that neither the faith and credit nor the taxing power of this state, the sponsor, except to the extent of the sponsor obligations, or another political subdivision of this state is pledged to the payment of the principal of or the interest on the bonds.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.073. Terms.

(a) A bond issued under this chapter must mature not later than 40 years after its date.

(b) Bonds issued under this chapter may be sold in any manner authorized by the corporation and permitted by Chapter 1201, Government Code.

(c) The interest rate on the bonds may be determined by a formula or index or in accordance with a contract or other arrangement for the periodic determination of interest rates.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.074. Use of Proceeds.

(a) The proceeds of the bonds of a corporation may be used to:

(1) finance, refinance, or provide one or more public facilities;

(2) maintain reserve funds determined by the sponsor and the corporation to be necessary and appropriate; or

(3) pay any costs relating to the issuance or incurrence of bonds by the corporation and the purchase of sponsor obligations by the corporation, including:

(A) the cost of:

(i) financing charges and interest on the bonds;

(ii) financing, legal, accounting, financial advisory, and appraisal fees, expenses, and disbursements;

(iii) an insurance policy;

(iv) printing, engraving, and reproduction services;

(v) the initial and acceptance fees of a trustee, paying agent, bond registrar, or authenticating agent; and

(vi) a credit agreement; and

(B) reasonable amounts to reimburse the corporation for time spent by its agents or employees with respect to the issuance, incurrence, or purchase.

(b) The purchase by the corporation of a sponsor obligation does not extinguish the debt represented by the sponsor obligation.

(c) Pending a use described by Subsection (a), the proceeds may be invested in accordance with Section 303.041.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.075. Refunding Obligations.

(a) A corporation may issue or incur bonds to refund its outstanding bonds or sponsor obligations of its sponsor, including any redemption premium on them and interest accrued to the date of redemption.

(b) The provisions of this chapter generally applicable to bonds apply to the issuance, maturity, terms, and holder's rights in the refunding bonds and to the corporation's rights, duties, and obligations in relation to the refunding bonds.

(c) The corporation may issue the refunding bonds in exchange or substitution for outstanding bonds or sponsor obligations or may sell the refunding bonds and use the proceeds to pay or redeem outstanding bonds or sponsor obligations.

(d) A corporation may issue or incur bonds to refund outstanding debt obligations of a nonprofit corporation created by a housing authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.076. Approval of Bonds by Other Entities.

Except as required by Chapter 1202, Government Code, and Section 303.071 a corporation may issue

bonds, acquire sponsor obligations, and enter into credit agreements under this chapter without the consent or approval of any other subdivision or agency of this state.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.077. Perfection of Security Interest.

(a) This section applies only to a security interest granted by:

(1) a corporation as security for its bonds;

(2) a credit agreement pledged as security for the obligations of the corporation on the bonds; or

(3) a credit agreement issued or entered into in connection with the bonds.

(b) Notwithstanding Section 9.109(d), Business & Commerce Code, and without any other filing, a security interest is perfected until payment of the bonds and credit agreement, with the effect specified by Chapter 9, Business & Commerce Code, when the bonds are registered by the comptroller and the proceedings authorizing the bonds are filed with the comptroller.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.104(a), effective September 1, 2001.)

Sec. 303.078. Purchase of Sponsor Obligations.

A sponsor may sell its sponsor obligations to a corporation that the sponsor has created at public or private sale on the terms the governing body of the sponsor determines.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

SUBCHAPTER D
DISSOLUTION OF CORPORATION

Sec. 303.101. Dissolution Authorized.

After a corporation's bonds and other obligations are paid and discharged, or adequate provision is made for their payment and discharge, the sponsor's governing body by written resolution may authorize and direct the dissolution of the corporation.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.102. Articles of Dissolution.

(a) Articles of dissolution on behalf of the corporation must be executed by:

(1) the president or vice president and the secretary or assistant secretary; or

(2) the presiding officer of the sponsor's governing body and the secretary or clerk of that body.

(b) An officer signing the articles of dissolution must verify them.

(c) The articles of dissolution must include:

(1) the name of the corporation;

(2) the name and address of the sponsor;

(3) a statement that the dissolution was authorized by the sponsor's governing body;

(4) the date of the meeting at which the dissolution was authorized;

(5) a statement that all of the corporation's bonds and other obligations have been paid and discharged or that adequate provision has been made for their payment and discharge; and

(6) a statement that no suit is pending in a court against the corporation or that adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against the corporation in each pending suit.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.103. Certificate of Dissolution.

(a) The original and two copies of the articles of dissolution shall be delivered to the secretary of state.

(b) If the secretary of state finds that the articles of dissolution comply with this chapter and have been authorized by the sponsor's governing body, the secretary of state, on payment of the fees required by this chapter, shall:

(1) write "filed" on the original and each copy of the articles of dissolution and the month, day, and year of the filing;

(2) file the original in the office of the secretary of state; and

(3) issue two certificates of dissolution with a copy of the articles of dissolution attached to each.

(c) The secretary of state shall deliver a certificate of dissolution, with a copy of the articles of dissolution attached, to the representative of the dissolved corporation and to the sponsor's governing body.

(d) The existence of the corporation ceases on the issuance of the certificate of dissolution, except for the purpose of suits, other proceedings, and appropriate corporate action by the directors and officers of the corporation as provided by this chapter.
(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.104. Extension of Duration.

If a corporation is dissolved by expiration of its duration, the corporation may amend its articles of incorporation to extend its duration before the third anniversary of the date of dissolution.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.105. Vesting Property in Sponsoring Entity.

The title to all funds and other property owned by a corporation when it dissolves automatically vests in the corporation's sponsor without further conveyance, transfer, or other act.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.106. Rights, Claims, and Liabilities Before Dissolution.

(a) The dissolution of a corporation by the expiration of its duration or by the issuance of a certificate of dissolution does not impair a remedy available to or against the corporation or a director or officer of the corporation for a right or claim existing or a liability incurred before the dissolution, if action or other proceeding on the remedy is begun before the third anniversary of the date of the dissolution.

(b) The action may be prosecuted or defended by the corporation in its corporate name.

(c) The directors and officers may take corporate or other action as appropriate to protect the remedy, right, or claim.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

SUBCHAPTER E ADMINISTRATION BY SECRETARY OF STATE

Sec. 303.121. Administration of Chapter.

The secretary of state may act as reasonably necessary to efficiently administer this chapter and to perform the duties imposed by this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.122. Fees.

(a) The secretary of state shall charge and collect fees for:

(1) filing articles of incorporation and issuing two certificates of incorporation;

(2) filing articles of amendment and issuing two certificates of amendment;

(3) filing a statement of change of address of registered office or change of registered agent or both;

(4) filing restated articles of incorporation and issuing two restated certificates of incorporation; and

(5) filing articles of dissolution.

(b) The fees are in the amounts charged by the secretary of state for the respective filings and issuances under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.123. Notice and Appeal of Disapproval.

(a) If the secretary of state does not approve a document required by this chapter to be approved by the secretary of state, the secretary of state, not later than the 10th day after the date the document is delivered to the secretary of state, shall give written notice of the disapproval to the person who delivered the document. The notice must state the reasons for the disapproval.

(b) The person may appeal the disapproval to a district court of Travis County by filing with the clerk of the court a petition including a copy of the disapproved document and a copy of the disapproval notice.

(c) The court shall try the matter de novo and either sustain the secretary of state's action or direct the secretary of state to take action the court considers proper.

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

Sec. 303.124. Documents As Prima Facie Evidence.

A court, public office, or official body shall receive the following documents as prima facie evidence of the facts, or the existence or nonexistence of the facts, stated in the documents:

(1) a certificate issued by the secretary of state under this chapter;

(2) a copy, certified by the secretary of state, of a document filed in the office of the secretary of state under this chapter; and

(3) a certificate of the secretary of state under the state seal as to the existence or nonexistence of a fact relating to a corporation that would not appear from a document or certificate under Subdivision (1) or (2).

(Enacted by Acts 1999, 76th Leg., ch. 227 (H.B. 3157), § 11, effective September 1, 1999.)

CHAPTER 304 ENERGY AGGREGATION MEASURES FOR LOCAL GOVERNMENTS

Section

Section
304.002. Aggregation by Political Subdivision for Citizens.

Sec. 304.001. Aggregation by Political Subdivisions.

(a) In this chapter, "political subdivision" means a county, municipality, school district, hospital district, or any other political subdivision receiving electric service from an entity that has implemented customer choice, as defined in Section 31.002, Utilities Code.

(b) A political subdivision may join with another political subdivision or subdivisions to form a political subdivision corporation or corporations to act as an agent to negotiate the purchase of electricity, or to likewise aid or act on behalf of the political subdivisions for which the corporation is created, with respect to their own electricity use for their respective public facilities.

(c) The articles of incorporation and the bylaws of a political subdivision corporation must be approved by ordinance, resolution, or order adopted by the governing body of each political subdivision for which the corporation is created.

(d) A political subdivision corporation may negotiate on behalf of its incorporating political subdivisions for the purchase of electricity, make contracts for the purchase of electricity, purchase electricity, and take any other action necessary to purchase electricity for use in the public facilities of the political subdivision or subdivisions represented by the political subdivision corporation. In this subsection, "electricity" means electric energy, capacity, energy services, ancillary services, or other electric services for retail or wholesale consumption by the political subdivisions.

(e) A political subdivision corporation may recover the expenses of the political subdivision corporation through the assessment of dues to the incorporating political subdivisions or through an aggregation fee charged per kilowatt hour, or a combination of both.

(f) A political subdivision corporation may appear on behalf of its incorporating political subdivisions before the Public Utility Commission of Texas, the Railroad Commission of Texas, the Texas Natural Resource Conservation Commission, any other governmental agency or regulatory authority, the Texas Legislature, and the courts.

(g) A political subdivision corporation has the powers of a corporation created and incorporated pursuant to the provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and such other powers as specified in Section 39.3545, Utilities Code.

(h) The provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) relating to powers, standards of conduct, and interests in contracts apply to the directors and officers of a political subdivision corporation.

(i) A member of the board of directors of a political subdivision corporation:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be elected to serve as an official of a political subdivision or be employed by a political subdivision.

(Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 42, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(87), effective September 1, 2001 (renumbered from Sec. 303.001); am. Acts 2003, 78th Leg., ch. 201 (H.B. 3459), § 58, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 680 (H.B. 2528), § 2, effective June 20, 2003.)

Sec. 304.002. Aggregation by Political Subdivision for Citizens.

(a) A political subdivision aggregator may negotiate for the purchase of electricity and energy services on behalf of the citizens of the political subdivision. The citizens must affirmatively request to be included in the aggregation services by the political subdivision aggregator.

(b) A political subdivision may contract with a third party or another aggregator to administer the aggregation of electricity and energy services purchased under Subsection (a).

(c) The political subdivision aggregator may use any mailing from the subdivision to invite participation by its citizens.

(Enacted by Acts 1999, 76th Leg., ch. 405 (S.B. 7), § 42, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 21.001(87), effective September 1, 2001 (renumbered from Sec. 303.002).)

TITLE 10

PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES

SUBTITLE C
PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 332
MUNICIPAL AND COUNTY RECREATIONAL PROGRAMS AND FACILITIES

Subchapter B. Joint Facilities for Political Subdivisions

SUBCHAPTER B
JOINT FACILITIES FOR POLITICAL SUBDIVISIONS

Sec. 332.021. Joint Recreational Facilities.

(a) Any two political subdivisions, including municipalities and independent school districts, that are located in the same or adjacent counties may jointly by agreement establish, provide, maintain, construct, and operate playgrounds, recreation centers, athletic fields, swimming pools, and other park or recreational facilities located on property owned or acquired by either political subdivision.

(b) The political subdivisions acting jointly may issue bonds and otherwise act under either Subchapter A, Chapter 1504, Government Code, or Subchapter C, Chapter 1508, Government Code, for the purposes authorized by this section. The political subdivisions may issue the bonds and take other joint actions under their agreement by joint concurrent ordinances or resolutions.

(c) The political subdivisions may delegate supervision and management of the facilities to an operating board or agency.

(Enacted by Acts 1987, 70th Leg., ch. 149 (S.B. 896), § 1, effective September 1, 1987; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 8.325, effective September 1, 2001.)

TITLE 12

PLANNING AND DEVELOPMENT

SUBTITLE C
PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 395
FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

Subchapter B. Authorization of Impact Fee

SUBCHAPTER B
AUTHORIZATION OF IMPACT FEE

Sec. 395.022. Authority of Political Subdivision to Pay Fees.

(a) Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

(b) A school district is not required to pay impact fees imposed under this chapter unless the board of trustees of the district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board of trustees considers advisable to provide for the payment of the fees.

(Enacted by Acts 1989, 71st Leg., ch. 1 (S.B. 220), § 82(a), effective August 28, 1989; am. Acts 2007, 80th Leg., ch. 250 (S.B. 883), § 1, effective May 25, 2007.)

Natural Resources Code

TITLE 2
PUBLIC DOMAIN

SUBTITLE C
ADMINISTRATION

CHAPTER 32
SCHOOL LAND BOARD

Subchapter C. Powers and Duties

SUBCHAPTER C
POWERS AND DUTIES

Sec. 32.061. Board's General Duties.

Except as provided by Subchapter G, Chapter 51, of this code, the board shall:

(1) set the dates to open received bids for the sale of land, for the lease of land for prospecting or exploring for, mining, producing, storing, caring for, transporting, preserving, selling, or disposing of oil, gas, or other minerals leased under this chapter, and for the commitment of land to a contract for development;

(2) determine the prices and set the terms and conditions under which land shall be sold, leased, or committed to a contract for development;

(3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and

(4) perform any other duties which may be required by law.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977; am. Acts 1985, 69th Leg., ch. 624 (S.B. 493), § 15, effective September 1, 1985; am. Acts 1993, 73rd Leg., ch. 897 (S.B. 962), § 2, effective September 1, 1993; am. Acts 2009, 81st Leg., ch. 1175 (H.B. 3461), § 5, effective June 19, 2009.)

SUBTITLE D
DISPOSITION OF THE PUBLIC DOMAIN

CHAPTER 51
LAND, TIMBER, AND SURFACE RESOURCES

Subchapter A. General Provisions

Subchapter C. Sale of Public School and Asylum Land

Subchapter I. Acquisition of Public School Land

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 51.001. Definitions.

In this chapter:

(1) "Commissioner" means the Commissioner of the General Land Office.

(2) "Land office" means the General Land Office.

(3) "Board" means the School Land Board.

(4) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

(5) "Board of regents" means the board of regents of The University of Texas System.

(6) "Public school land" means all land of the state that is dedicated to the permanent school fund.

(7) "Appraiser" means a state certified or state licensed real estate appraiser who is employed by or contracts with the land office and who performs professional valuation services competently and in a manner that is independent, impartial, and objective.

(8) "Surveyed land" means all or part of any tract of land surveyed either on the ground or by protraction and dedicated to or acquired on behalf of the public school fund which is unsold and for which field notes are on file in the land office or that may be delineated on the maps of that office as such.

(9) "Unsurveyed land" means any land that is not included in surveys on file in the land office or surveys delineated on maps of that office.

(10) "Land" or "real property" means any interest in the physical land and appurtenances attached to the land, including improvements.

(11) "Market value" has the meaning assigned by Section 1.04, Tax Code.

(12) "Sovereign land" means land that has not been sold and severed by the sovereign.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977; am. Acts 1997, 75th Leg., ch. 1423 (H.B. 2841), § 14.02, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 280 (H.B. 2249), § 1, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1098 (H.B. 2217), § 1, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 1175 (H.B. 3461), § 13, effective June 19, 2009.)

SUBCHAPTER C
SALE OF PUBLIC SCHOOL AND ASYLUM LAND

Sec. 51.052. Conditions for Sale of Land.

(a) [Repealed by Acts 2009, 81st Leg., ch. 1175 (H.B. 3461), § 33(2), effective June 19, 2009.]

(b) A purchaser of land under this subchapter may make a down payment of an amount determined by the board and the board may set the terms and conditions of the sale, including the interest rate. On full payment and satisfaction of other conditions, the purchaser is entitled to a patent for the land. This subsection does not prevent the board from requiring a tract of land to be purchased for cash.

(c) [Repealed by Acts 1987, 70th Leg., ch. 208 (S.B. 478), § 14, effective August 31, 1987.]

(d) Before the land under this chapter is sold, the appraiser must appraise the land at its market value and file a copy of the appraisal with the commissioner.

(e) The owner of land that surrounds a tract of land approved for sale by the board shall have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

(f) If the surrounding land is owned by more than one person, the owners of land with a common boundary with a tract of land approved for sale by the board shall have a preference right to purchase the tract before it is made available to any other person, provided the person with the preference right pays not less than the market value of the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

(g) If land is located within the boundaries of or adjacent to any state park, refuge, natural area, or historical site subject to the management and control of the Parks and Wildlife Department, the department has a preference right to purchase the land before it is made available to any other person. A sale to the department under this section may not be for less than the market value of the land, as determined by the board.

(h) The board may sell or exchange any interest in the surface estate of public school land directly to any state agency, board, commission, or political subdivision or other governmental entity of this state without the necessity of a sealed bid sale. All sales or exchanges made pursuant to this subsection shall be for not less than market value as determined by the board and under such other terms and conditions the board determines to be in the best interest of the state.

(i) If no bid meeting minimum requirements is received for a tract of land offered at a sealed bid sale under Subchapter D of Chapter 32, or if the transaction involves commercial real estate and the board determines that it is in the best interest of the permanent school fund, the asset management division of the land office may solicit proposals or negotiate a sale, exchange, or lease of the land to any person. The board must approve any negotiated sale, exchange, or lease of any land under this section.

(i-1) The land office shall post information related to the process for purchasing commercial real estate under Subsection (i) on the land office's Internet website.

(j) The board, in its sole discretion and in the best interests of the permanent school fund as determined by the board and without regard to requirements of local governments as to the necessity of any such dedication, may dedicate permanent school fund land to any governmental unit for the benefit and use of the public in exchange for nonmonetary consideration with a value reasonably equivalent to or greater than the market value of the dedicated land, if the board determines that such an exchange would benefit the permanent school fund. The asset management division of the land office shall determine the value of the nonmonetary consideration and shall file a copy of its determination with the commissioner. Examples of public purposes for which permanent school fund land may be dedicated under this subsection include but are not limited to: (1) rights-of-way for public roads, utilities, or other infrastructure; (2) public schools; (3) public parks; (4) government offices or facilities; (5) public recreation facilities; and (6) residential neighborhood public amenities.

(k) The asset management division of the land office may contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in any sale, lease, or exchange of land under this subchapter.

(*l*) If the board leases land under this subchapter and the lease includes the right to produce groundwater from the land, the lessee shall comply with the statutory provisions governing and the rules adopted by the groundwater conservation district, if any, in which the land is located, including the statutory provisions and rules governing the production and use of groundwater and the transfer of groundwater out of the district.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977; am. Acts 1983, 68th Leg., ch. 965 (H.B. 1964), § 1, effective June 19, 1983; am. Acts 1987, 70th Leg., ch. 208 (S.B. 478), § 14, effective August 31, 1987; am. Acts 1989, 71st Leg., ch. 383 (S.B. 512), § 4, effective June 14, 1989; am. Acts 1991, 72nd Leg., ch. 633 (S.B. 700), § 5, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 991 (S.B. 964), § 13, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 293 (S.B. 1282), § 1, effective August 28, 1995; am. Acts 2003, 78th Leg., ch. 280 (H.B. 2249), § 7, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1098 (H.B. 2217), § 6, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 726 (H.B. 2518), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1175 (H.B. 3461), §§ 17, 33(2), effective June 19, 2009.)

SUBCHAPTER I
ACQUISITION OF PUBLIC SCHOOL LAND

Sec. 51.401. Real Estate Special Fund Account.

(a) The board may designate funds received from any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the permanent school fund under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, for deposit in the real estate special fund account of the permanent school fund in the State Treasury to be used by the board as provided by this subchapter.

(b) The real estate special fund account must be an interest-bearing account, and the interest received on the account shall be deposited in the State Treasury to the credit of the real estate special fund account of the permanent school fund.

(c), (d) [Repealed by Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), § 10, effective June 15, 2007.]

(e) Section 403.095, Government Code, does not apply to a fund account created under this section.

(Enacted by Acts 1985, 69th Leg., ch. 624 (S.B. 493), § 40, effective November 5, 1985; am. Acts 1993, 73rd Leg., ch. 991 (S.B. 964), § 18, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 900 (H.B. 3558), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 328 (S.B. 206), § 6, effective January 1, 2004; am. Acts 2005, 79th Leg., ch. 1098 (H.B. 2217), § 7, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), §§ 3, 4, 10, effective June 15, 2007.)

Sec. 51.402. Use of Designated Funds.

(a) The board may use the money designated under Section 51.401 for any of the following purposes:

(1) to add to a tract of public school land to form a tract of sufficient size to be manageable;

(2) to add contiguous land to public school land;

(3) to acquire, as public school land, interests in real property for biological, commercial, geological, cultural, or recreational purposes;

(4) to acquire mineral and royalty interests for the use and benefit of the permanent school fund;

(5) to protect, maintain, or enhance the value of public school land;

(6) to acquire interests in real estate;

(7) to pay reasonable fees for professional services related to a permanent school fund investment; or

(8) to acquire, sell, lease, trade, improve, maintain, protect, or use land, mineral and royalty interests, or real estate investments, an investment or interest in public infrastructure, or other interests, at such prices and under such terms and conditions the board determines to be in the best interest of the permanent school fund.

(b) Before using funds under Subsection (a), the board must determine, using the prudent investor standard, that the use of the funds for the intended purpose is authorized by Subsection (a) and in the best interest of the permanent school fund. A determination by the board on the use of funds under this section is conclusive unless the determination was made as a result of fraud or obvious error.

(b-1) The board may confer with one or more employees of the board or with a third party regarding an investment or potential investment in real estate, including the acquisition or potential acquisition of interests in real estate, to the extent permitted to the board of trustees of the Texas growth fund under Section 551.075, Government Code.

(c) Notwithstanding Subsection (a), the market value of the investments in real estate under this section on January 1 of each even-numbered year may not exceed an amount that is equal to 15 percent of the market value of the permanent school fund on that date.

(Enacted by Acts 1985, 69th Leg., ch. 624 (S.B. 493), § 40, effective November 5, 1985; am. Acts 2001, 77th Leg., ch. 900 (H.B. 3558), §§ 2, 3, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 280 (H.B. 2249), § 30, effective June 18, 2003; am. Acts 2005, 79th Leg., ch. 1098 (H.B. 2217), § 8, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), § 5, effective June 15, 2007.)

Sec. 51.4021. Appointment of Special Fund Managers, Investment Consultants, or Advisors.

(a) The board may appoint investment managers, consultants, or advisors to invest or assist the board in investing the money designated under Section 51.401 by contracting for professional investment management or investment advisory services with one or more organizations that are in the business of managing or advising on the management of real estate investments.

(b) To be eligible for appointment under this section, an investment manager, consultant, or advisor shall agree to abide by the policies, requirements, or restrictions, including ethical standards and disclosure policies and criteria for determining the quality of investments and for the use of standard rating services, that the board adopts for real estate investments of the permanent school fund. Money designated under Section 51.401 may not be invested in a real estate investment trust, as defined by Section 200.001, Business Organizations Code.

(c) Compensation paid to an investment manager, consultant, or advisor by the board must be consistent with the compensation standards of the investment industry and compensation paid by similarly situated institutional investors.

(d) Chapter 2263, Government Code, applies to investment managers, consultants, or advisors appointed under this section. The board by rule shall adopt standards of conduct for investment managers, consultants, or advisors appointed under this section as required by Section 2263.004, Government Code, and shall implement the disclosure requirements of Section 2263.005 of that code.

(Enacted by Acts 2005, 79th Leg., ch. 1098 (H.B. 2217), § 9, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), § 6, effective June 15, 2007.)

Sec. 51.412. Reports to Legislature.

(a) Not later than September 1 of each even-numbered year, the board shall submit to the legislature a report that, specifically and in detail, assesses the direct and indirect economic impact, as anticipated by the board, of the investment of funds designated under Section 51.401 for deposit in the real estate special fund account of the permanent school fund. The board may not disclose information under this section that is confidential under applicable state or federal law. The report must include the following information:

(1) the total amount of money designated by Section 51.401 for deposit in the real estate special fund account of the permanent school fund that the board intends to invest;

(2) the rate of return the board expects to attain on the investment;

(3) the amount of money the board expects to distribute to the available school fund or the State Board of Education for investment in the permanent school fund after making the investments;

(4) the distribution of the board's investments by county;

(5) the effect of the board's investments on the level of employment, personal income, and capital investment in the state; and

(6) any other information the board considers necessary to include in the report.

(b) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a report that assesses the return and economic impact of the investments reported to the legislature before the preceding regular legislative session.

(Enacted by Acts 2005, 79th Leg., ch. 1098 (H.B. 2217), § 9, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), § 7, effective June 15, 2007.)

Sec. 51.413. Transfers from the Real Estate Special Fund Account to the Available School Fund and the Permanent School Fund.

The board may, by a resolution adopted at a regular meeting, release from the real estate special fund account funds previously designated under Section 51.401 of this chapter or managed, used, or encumbered under Section 51.402 or Section 51.4021 of this chapter to be deposited in the State Treasury to the credit of:

(1) the available school fund; or

(2) the State Board of Education for investment in the permanent school fund.

(Enacted by Acts 2007, 80th Leg., ch. 1368 (H.B. 3699), § 8, effective June 15, 2007.)

SUBTITLE F
LAND OF POLITICAL SUBDIVISIONS

CHAPTER 71
LEASE FOR MINERAL DEVELOPMENT

Subchapter A. Leases by Political Subdivisions

Subchapter B. Pooling Mineral Leases

SUBCHAPTER A
LEASES BY POLITICAL SUBDIVISIONS

Sec. 71.001. Definition.

In this subchapter, "political subdivision" means any body corporate with a recognized and defined area.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.002. Authority to Lease.

A political subdivision may lease land owned by it for mineral development, including development of coal and lignite.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.003. Governing Body to Exercise Authority.

The governing body of the political subdivision which is vested by law with management, control, and supervision of the political subdivision shall exercise the right to lease the land.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.004. Notice and Hearing.

Before a lease is made under this subchapter, notice must be given and a public hearing must be held for consideration of bids.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.005. Notice of Intention to Lease Land.

(a) After the governing body determines that it is advisable to lease land belonging to the political subdivision, it shall give notice of the intention to lease the land.

(b) The notice shall describe the land to be leased and designate the time and place at which the governing body will receive and consider bids for the lease.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.006. Receiving Bids and Awarding Lease.

On the date specified in the notice, the governing body of the political subdivision shall receive and consider bids submitted for leasing all or part of the land that was advertised for lease, and the governing body may award the lease to the highest and best bidder who submits a bid.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.007. Rejection of Bids and Additional Bids.

If the governing body believes that the bids submitted to it do not represent the fair value of the leases, the governing body may reject the bids, give notice, and call for additional bids.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.008. Grant of Lease.

A lease made under this subchapter, including leases for coal and lignite, may be granted by public auction.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.009. Royalty.

(a) In each lease other than a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a one-eighth royalty.

(b) In a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a royalty based on one of the following or a combination of the following:

(1) a sum certain per ton;

(2) a percentage certain of the gross sale price F.O.B. at the mine site of the coal and lignite; or

(3) a sum certain for each acre-foot of coal and lignite mined and removed from the premises.

(c) Royalties under a coal and lignite lease may be paid as advanced mineral royalties.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.010. Lease Term.

(a) No primary term of a lease other than a lease for coal and lignite made under this subchapter may be for a period of more than 10 years from the date of the execution and approval of the lease.

(b) No primary term for a coal and lignite lease made under this subchapter may be for a period of more than 35 years from the date of execution.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

SUBCHAPTER B
POOLING MINERAL LEASES

Sec. 71.051. Definitions.

In this subchapter:

(1) "City or town" means a city or town organized or chartered under the general laws of the state or under a special act or charter.

(2) "Political subdivision" means a body corporate which has a recognized and defined area.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.052. Inserting Pooling Provisions in Leases.

A city, town, or political subdivision may insert in an oil and gas lease or in an oil, gas, and mineral lease executed by it a provision authorizing the lessee to pool the lease, the land or minerals included in the lease, or any part of these with any other land, leases, mineral estates, or parts of any of these to form a drilling or spacing unit for the exploration, development, and production of oil or gas and authorizing the lessee to form the units and accomplish the pooling by written designations filed in the county in which the land is located.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.053. Compliance with Governmental Agencies.

With respect to land owned by the city or town or other land owned by the political subdivisions, the drilling or spacing units may not be more than the minimum number of acres on which an oil and gas well must be located to comply with the rules or orders of the Railroad Commission of Texas or any other federal or state regulatory body that has authority to control or regulate the spacing of oil and gas wells.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.054. Terms and Conditions of Leases of County School Land.

Leases of county school land that are governed by Article VII, Section 6, of the Texas Constitution, may include authorization for the formation of drilling and spacing units on any terms and provisions the commissioners court considers best.
(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.055. Additional Terms of Leases.

A lease covered by this subchapter may provide:

(1) that the entire acreage pooled into a unit shall be treated for all purposes except the payment of royalties as if it were included in the lease and drilling or reworking operations and production of oil or gas on any part of the unit shall be considered for all purposes except the payment of royalties as if the operations were on and production were from the land included in the lease whether or not the well or wells are located on the premises included in the lease; and

(2) that instead of the royalties provided in the lease, the lessor shall receive on production from a pooled unit only the proportion of the royalty provided in the lease as the amount of the lessor's acreage placed in the unit or its royalty interest on an acreage basis bears to the total acreage included in the unit.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.056. Amending Lease.

On application of the lessee or present owner of any oil and gas lease or any oil, gas, and mineral lease validly executed before June 4, 1953, by any city, town, or political subdivision, the governing body of the city, town, or political subdivision may amend the lease to include a pooling provision that includes the terms provided in this subchapter.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Sec. 71.057. Authority to Commit Royalty Interests.

(a) A city, town, or political subdivision without notice may commit, to any agreement that provides for the operation of areas as a unit for the exploration, development, and production of oil or gas, any royalty interests owned by the city, town, or political subdivision in oil or gas.

(b) The agreement may include any terms and provisions that the city, town, or political subdivision considers best and may provide in substance:

(1) that operations incident to drilling a well on any portion of a unit shall be considered for all purposes to be the conduct of the operation on each separately owned tract in the unit by the several owners of the tracts;

(2) that the production allocated to each tract included in a unit shall, when produced, be considered for all purposes to have been produced from the tract by a well drilled on it;

(3) that any lease that covers any part of the area committed to the agreement shall continue in force as long as oil or gas is produced in paying quantities from any part of the unit area; and

(4) that royalties reserved to the city, town, or political subdivision from any tract or portion of a tract included within the unit shall be paid only on that portion of the production allocated to the tract or on the value of the production allocated according to the agreement.

(c) No agreement may be made by any city, town, or political subdivision which commits the city, town, or political subdivision to the payment of any part of the cost or expense of operating any unit area or any well located on the area.

(Enacted by Acts 1977, 65th Leg., ch. 871 (S.B. 1207), art. I, § 1, effective September 1, 1977.)

Occupations Code

TITLE 2
GENERAL PROVISIONS RELATING TO LICENSING

CHAPTER 53
CONSEQUENCES OF CRIMINAL CONVICTION

Subchapter A. General Provisions

Subchapter B. Ineligibility for License

Subchapter C. Notice and Review of Suspension, Revocation, or Denial of License

Subchapter D. Preliminary Evaluation of License Eligibility

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 53.001. Applicability of Certain Definitions.

The definitions provided by Chapter 2001, Government Code, apply to this chapter.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 53.002. Applicability of Chapter.

This chapter does not apply to:

(1) the Supreme Court of Texas, a person licensed under the court's authority on behalf of the judicial department of government, or an applicant for a license issued under the court's authority on behalf of the judicial department of government;

(2) a person licensed or an applicant for a license under Chapter 1701;

(3) an applicant for certification as emergency medical services personnel under Chapter 773, Health and Safety Code; or

(4) a person who:

(A) is licensed by the Texas Medical Board, the Texas State Board of Pharmacy, the State Board of Dental Examiners, or the State Board of Veterinary Medical Examiners; and

(B) has been convicted of a felony under Chapter 481 or 483 or Section 485.033, Health and Safety Code.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 1149 (H.B. 2845), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 754 (H.B. 1402), § 1, effective September 1, 2011.)

SUBCHAPTER B
INELIGIBILITY FOR LICENSE

Sec. 53.021. Authority to Revoke, Suspend, or Deny License.

(a) A licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

(1) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;

(3) an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure; or

(4) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

(a-1) Subsection (a) does not apply to a person who has been convicted only of an offense punishable as a Class C misdemeanor unless:

(1) the person is an applicant for or the holder

of a license that authorizes the person to possess a firearm; and

(2) the offense for which the person was convicted is a misdemeanor crime of domestic violence as that term is defined by 18 U.S.C. Section 921.

(b) A license holder's license shall be revoked on the license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(c) Except as provided by Subsections (d) and (e), notwithstanding any other law, a licensing authority may not consider a person to have been convicted of an offense for purposes of this section if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision, the judge dismissed the proceedings and discharged the person.

(d) A licensing authority may consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if:

(1) the person was charged with:

(A) any offense described by Article 62.001(5), Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if:

(i) the person has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for the license; or

(ii) a conviction for the offense would make the person ineligible for the license by operation of law; and

(2) after consideration of the factors described by Sections 53.022 and 53.023(a), the licensing authority determines that:

(A) the person may pose a continued threat to public safety; or

(B) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

(e) Subsection (c) does not apply if the person is an applicant for or the holder of a license that authorizes the person to provide:

(1) law enforcement or public health, education, or safety services; or

(2) financial services in an industry regulated by a person listed in Section 411.081(i)(19), Government Code.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 3, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1148 (H.B. 2808), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 938 (H.B. 1659), § 2, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1265 (H.B. 798), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 938 (H.B. 1659), § 3 provides: "The change in law made by this Act applies to an application for a license or other authorization that is filed, or a proceeding to revoke or suspend a license or authorization that is commenced, on or after the effective date of this Act [September 1, 2013]."

Acts 2013, 83rd Leg., ch. 1265 (H.B. 798), § 2 provides: "The change in law made by this Act applies to an application for, or a disciplinary proceeding regarding, a license or other authorization that is pending with a licensing authority on the effective date of this Act [September 1, 2013] or an application filed or a disciplinary proceeding commenced on or after that date."

Sec. 53.0211. Licensing of Certain Applicants with Prior Criminal Convictions.

(a) This section does not apply to an applicant for a license that would allow the applicant to provide:

(1) law enforcement services;

(2) public health, education, or safety services; or

(3) financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner.

(b) Notwithstanding any law other than Subsection (a) and unless the applicant has been convicted of an offense described by Section 53.021(a), a licensing authority shall issue to an otherwise qualified applicant who has been convicted of an offense:

(1) the license for which the applicant applied; or

(2) a provisional license described by Subsection (c).

(c) A licensing authority may issue a provisional license for a term of six months to an applicant who has been convicted of an offense.

(d) The licensing authority shall revoke a provisional license if the provisional license holder:

(1) commits a new offense;

(2) commits an act or omission that causes the person's community supervision, mandatory supervision, or parole to be revoked, if applicable; or

(3) violates the law or rules governing the practice of the occupation for which the provisional license is issued.

(e) The licensing authority shall issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described by Subsection (d).

(f) If the licensing authority revokes a provisional license under Subsection (d), the provisional license holder is disqualified from receiving the license for which the applicant originally applied.

(g) An applicant who is on community supervision, mandatory supervision, or parole and who is issued a provisional license under this section shall provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The licensing authority shall notify the probation or parole department that a provisional license has been issued. The probation or parole department shall notify the licensing authority if the person's community supervision, mandatory supervision, or parole supervision is revoked during the term of the provisional license. (Enacted by Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 4, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1182 (H.B. 3453), § 13, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1182 (H.B. 3453), § 15 provides: "The change in law made by this Act to Section 53.0211(a), Occupations Code, applies only to an application for a license filed on or after the effective date of this Act [September 1, 2011]. An application for a license filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose."

Sec. 53.022. Factors in Determining Whether Conviction Relates to Occupation.

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 53.023. Additional Factors for Licensing Authority to Consider.

(a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person before and after the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and

(6) other evidence of the person's fitness, including letters of recommendation from:

(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the convicted person.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).

(c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:

(1) maintained a record of steady employment;

(2) supported the applicant's dependents;

(3) maintained a record of good conduct; and

(4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 53.024. Proceedings Governed by Administrative Procedure Act.

A proceeding before a licensing authority to establish factors required to be considered under this subchapter is governed by Chapter 2001, Government Code.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 53.025. Guidelines.

(a) Each licensing authority shall issue guidelines relating to the practice of the licensing authority under this chapter. The guidelines must state the reasons a particular crime is considered to relate to a particular license and any other criterion that affects the decisions of the licensing authority.

(b) A state licensing authority that issues guidelines under this section shall file the guidelines with the secretary of state for publication in the Texas Register.

(c) A local or county licensing authority that issues guidelines under this section shall post the guidelines at the courthouse for the county in which the licensing authority is located or publish the guidelines in a newspaper having countywide circulation in that county.

(d) Amendments to the guidelines, if any, shall be issued annually.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

SUBCHAPTER C
NOTICE AND REVIEW OF SUSPENSION, REVOCATION, OR DENIAL OF LICENSE

Sec. 53.051. Notice.

A licensing authority that suspends or revokes a license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of a crime and the relationship of the crime to the license shall notify the person in writing of:

(1) the reason for the suspension, revocation, denial, or disqualification;

(2) the review procedure provided by Section 53.052; and

(3) the earliest date the person may appeal the action of the licensing authority.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 53.052. Judicial Review.

(a) A person whose license has been suspended or revoked or who has been denied a license or the opportunity to take an examination under Section 53.021 and who has exhausted the person's administrative appeals may file an action in the district court in the county in which the licensing authority is located for review of the evidence presented to the licensing authority and the decision of the licensing authority.

(b) The petition for an action under Subsection (a) must be filed not later than the 30th day after the date the licensing authority's decision is final and appealable.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

SUBCHAPTER D
PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

Sec. 53.101. Definitions.

In this subchapter:

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority; and

(B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state that issues a license.

(Enacted by Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 1, effective September 1, 2009.)

Sec. 53.102. Request for Criminal History Evaluation Letter.

(a) A person may request a licensing authority to issue a criminal history evaluation letter regarding the person's eligibility for a license issued by that authority if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

(b) The request must state the basis for the person's potential ineligibility.

(Enacted by Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 1, effective September 1, 2009.)

Sec. 53.103. Authority to Investigate.

A licensing authority has the same powers to investigate a request submitted under this subchapter and the requestor's eligibility that the authority has to investigate a person applying for a license.

(Enacted by Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 1, effective September 1, 2009.)

Sec. 53.104. Determination of Eligibility; Letter.

(a) If a licensing authority determines that a ground for ineligibility does not exist, the authority shall notify the requestor in writing of the authority's determination on each ground of potential ineligibility.

(b) If a licensing authority determines that the requestor is ineligible for a license, the licensing authority shall issue a letter setting out each basis for potential ineligibility and the authority's determination as to eligibility. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the authority's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

(c) A licensing authority must provide notice under Subsection (a) or issue a letter under Subsection (b) not later than the 90th day after the date the authority receives the request.

(Enacted by Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 1, effective September 1, 2009.)

Sec. 53.105. Fees.

A licensing authority may charge a person requesting an evaluation under this subchapter a fee adopted by the authority. Fees adopted by a licensing authority under this subchapter must be in an amount sufficient to cover the cost of administering this subchapter.

(Enacted by Acts 2009, 81st Leg., ch. 616 (H.B. 963), § 1, effective September 1, 2009.)

CHAPTER 54
EXAMINATION ON RELIGIOUS HOLY DAY; EXAMINATION ACCOMMODATIONS FOR PERSON WITH DYSLEXIA

Section

Sec. 54.001. Definitions.

In this chapter:

(1) "Religious holy day" means a day on which the tenets of a religious organization prohibit the organization's members from participating in secular activities.

(2) "Religious organization" means an organization that qualifies under Section 11.20, Tax Code.

(3) "State agency" means an agency in the executive, legislative, or judicial branch of state government that administers an examination for licensing or other regulatory purposes.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 54.002. Examination Scheduled on Religious Holy Day.

(a) Each state agency shall adopt a procedure to permit an examinee who wishes to observe a religious holy day on which the person's religious beliefs prevent the person from taking an examination to take an examination scheduled to be administered by the agency on that religious holy day on an alternate date.

(b) Each state agency shall adopt rules as necessary to implement this section.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 54.003. Examination Accommodations for Person with Dyslexia.

(a) In this section, "dyslexia" has the meaning assigned by Section 51.970, Education Code.

(b) For each licensing examination administered by a state agency, the agency shall provide reasonable examination accommodations to an examinee diagnosed as having dyslexia.

(c) Each state agency shall adopt rules necessary to implement this section, including rules to establish the eligibility criteria an examinee must meet for accommodation under this section.

(Enacted by Acts 2011, 82nd Leg., ch. 418 (S.B. 867), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 418 (S.B.867), § 3(b) provides: "The change in law made by Section 54.003, Occupations Code, as added by this Act, applies only to a licensing examination offered by a state agency on or after January 1, 2012."

CHAPTER 55
[2 VERSIONS: AS AMENDED BY ACTS 2013, 83RD LEG., CH. 66] LICENSING OF MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES
[2 VERSIONS: AS AMENDED BY ACTS 2013, 83RD LEG., CH. 348] LICENSE FOR MILITARY SERVICE MEMBER OR MILITARY SPOUSE

Section

Section

Sec. 55.001. Definitions.

In this chapter:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.

(1-a) "Military service member" means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(1-b) "Military spouse" means a person who is married to a military service member who is currently on active duty.

(1-c) "Military veteran" means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(2) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 2, effective May 18, 2013.)

Sec. 55.002. Exemption from Penalty for Failure to Renew License.

A state agency that issues a license shall adopt rules to exempt an individual who holds a license issued by the agency from any increased fee or other penalty imposed by the agency for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the agency that the individual failed to renew the license in a timely manner because the individual was on active duty in the United States armed forces serving outside this state.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 55.003. Extension of Certain Deadlines for Active Duty Military Personnel.

A person who holds a license, is a member of the state military forces or a reserve component of the armed forces of the United States, and is ordered to active duty by proper authority is entitled to an additional amount of time, equal to the total number of years or parts of years that the person serves on active duty, to complete:

(1) any continuing education requirements; and

(2) any other requirement related to the renewal of the person's license.

(Enacted by Acts 2005, 79th Leg., ch. 675 (S.B. 143), § 1, effective June 17, 2005.)

Sec. 55.004. Alternative License Procedure for Military Spouse.

(a) A state agency that issues a license shall adopt rules for the issuance of the license to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States and:

(1) holds a current license issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license; or

(2) within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months.

(b) Rules adopted under this section must include provisions to allow alternative demonstrations of competency to meet the requirements for obtaining the license.

(c) The executive director of a state agency may issue a license by endorsement in the same manner as the Texas Commission of Licensing and Regulation under Section 51.404 to an applicant described by Subsection (a).

(Enacted by Acts 2011, 82nd Leg., ch. 930 (S.B. 1733), § 2, effective June 17, 2011.)

Sec. 55.005. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 66] Expedited License Procedure for Military Spouses.

(a) A state agency that issues a license shall, as soon as practicable after a military spouse files an application for a license:

(1) process the application; and

(2) issue a license to a qualified military spouse applicant who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state.

(b) A license issued under this section may not be a provisional license and must confer the same rights, privileges, and responsibilities as a license not issued under this section.

(Enacted by Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 3, effective May 18, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 5(a) provides: "Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, apply only to an application for a license filed with a state agency as defined by Section 55.001, Occupations Code, on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act [May 18, 2013], and that law is continued in effect for that purpose."

Sec. 55.005. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 348] Apprenticeship Requirements for Applicant with Military Experience.

(a) Notwithstanding any other law, if an apprenticeship is required for an occupational license issued by a state agency, the state agency shall credit verified military service, training, or education that is relevant to the occupation toward the apprenticeship requirements for the license.

(b) The state agency shall adopt rules necessary to implement this section.

(Enacted by Acts 2013, 83rd Leg., ch. 348 (H.B. 2254), § 2, effective June 14, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 348 (H.B. 2254), § 3 provides: "Section 55.005, Occupations Code, as added by this Act, applies only to an application for an occupational license filed on or after May 1, 2014. An application for a license filed before May 1, 2014, is governed by the law in effect immediately before the effective date of this Act [June 14, 2013] and that law is continued in effect for that purpose."

Sec. 55.006. Renewal of Expedited License Issued to Military Spouse.

(a) As soon as practicable after a state agency issues a license under Section 55.005, the state agency shall determine the requirements for the license holder to renew the license.

(b) The state agency shall notify the license holder of the requirements for renewing the license in writing or by electronic means.

(c) A license issued under Section 55.005 has the term established by law or state agency rule, or a term of 12 months from the date the license is issued, whichever term is longer.

(Enacted by Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 3, effective May 18, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 5(a) provides: "Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, apply only to an application for a license filed with a state agency as defined by Section 55.001, Occupations Code, on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act [May 18, 2013], and that law is continued in effect for that purpose."

Sec. 55.007. License Eligibility Requirements for Applicants with Military Experience.

(a) Notwithstanding any other law, a state agency that issues a license shall, with respect to an applicant who is a military service member or military veteran, credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a license issued by the state agency.

(b) The state agency shall adopt rules necessary to implement this section.

(c) Rules adopted under this section may not apply to an applicant who:

(1) holds a restricted license issued by another jurisdiction; or

(2) has an unacceptable criminal history according to the law applicable to the state agency.

(Enacted by Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 3, effective May 18, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 66 (S.B. 162), § 5(a) provides: "Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act, apply only to an application for a license filed with a state agency as defined by Section 55.001, Occupations Code, on or after March 1, 2014. An application for a license filed before March 1, 2014, is governed by the law in effect immediately before the effective date of this Act [May 18, 2013], and that law is continued in effect for that purpose."

TITLE 6
REGULATION OF ENGINEERING, ARCHITECTURE, LAND SURVEYING, AND RELATED PRACTICES

SUBTITLE A
REGULATION OF ENGINEERING AND RELATED PRACTICES

CHAPTER 1001
ENGINEERS

Subchapter B. Exemptions

SUBCHAPTER B
EXEMPTIONS

Sec. 1001.053. Public Works.

The following work is exempt from this chapter:

(1) a public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is $8,000 or less;

(2) a public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is $20,000 or less; or

(3) road maintenance or improvement undertaken by the commissioners court of a county.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 1, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 273 (H.B. 2081), § 1, effective June 18, 2003.)

SUBCHAPTER I
PRACTICE OF ENGINEERING

Sec. 1001.407. Construction of Certain Public Works.

The state or a political subdivision of the state may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless:

(1) the engineering plans, specifications, and estimates have been prepared by an engineer; and

(2) the engineering construction is to be performed under the direct supervision of an engineer.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 1, effective June 1, 2003.)

TITLE 7
PRACTICES AND PROFESSIONS RELATED TO REAL PROPERTY AND HOUSING

SUBTITLE C
REGULATION OF CERTAIN TYPES OF HOUSING AND BUILDINGS

CHAPTER 1202
INDUSTRIALIZED HOUSING AND BUILDINGS

Subchapter A. General Provisions

SUBCHAPTER A GENERAL PROVISIONS

Sec. 1202.001. General Definitions.

In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Construction site building" means a commercial structure that is:

(A) not open to the public; and

(B) used for any purpose at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property.

(3) "Council" means the Texas Industrialized Building Code Council.

(4) "Department" means the Texas Department of Licensing and Regulation.

(4-a) "Executive director" means the executive director of the department.

(5) "Modular component" means a structural part of housing or a building constructed at a location other than the building site in a manner that prevents the construction from being adequately inspected for code compliance at the building site without:

(A) damage; or

(B) removal and reconstruction of a part of the housing or building.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), §§ 10.001, 10.020(1) effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.263(a), (b), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 714 (S.B. 443), § 1, effective September 1, 2005.)

Sec. 1202.002. Definition of Industrialized Housing.

(a) Industrialized housing is a residential structure that is:

(1) designed for the occupancy of one or more families;

(2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and

(3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

(b) Industrialized housing includes the structure's plumbing, heating, air conditioning, and electrical systems.

(c) Industrialized housing does not include:

(1) a residential structure that exceeds three stories or 49 feet in height;

(2) housing constructed of a sectional or panelized system that does not use a modular component; or

(3) a ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2009, 81st Leg., ch. 698 (H.B. 2763), § 1, effective September 1, 2009.)

Sec. 1202.003. Definition of Industrialized Building.

(a) An industrialized building is a commercial structure that is:

(1) constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site; and

(2) designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed.

(b) An industrialized building includes the structure's plumbing, heating, air conditioning, and electrical systems.

(c) [Repealed by Acts 2005, 79th Leg., ch. 714 (S.B. 443), § 5, effective September 1, 2005.]

(d) An industrialized building includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site but does not include:

(1) a commercial structure that exceeds three stories or 49 feet in height; or

(2) a commercial building or structure that is:

(A) installed in a manner other than on a permanent foundation; and

(B) either:

(i) not open to the public; or

(ii) less than 1,500 square feet in total area and used other than as a school or a place of religious worship.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.002, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 714 (S.B. 443), §§ 2, 5 effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 698 (H.B. 2763), § 2, Effective September 1, 2009.)

Sec. 1202.004. Relocatable Educational Facilities.

(a) In this section, "relocatable educational facility" means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site, that is used primarily as an educational facility for teaching the curriculum required under Section 28.002, Education Code.

(b) A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to industrialized buildings under this chapter.

(Enacted by Acts 2009, 81st Leg., ch. 698 (H.B. 2763), § 3, effective September 1, 2009.)

SUBCHAPTER B
TEXAS INDUSTRIALIZED BUILDING CODE COUNCIL

Sec. 1202.051. Council Membership.

The Texas Industrialized Building Code Council consists of 12 members appointed by the governor as follows:

(1) three members who represent the industrialized housing and building industries;

(2) three members who represent municipal building officials from municipalities with a population of more than 25,000;

(3) three members who represent general contractors who construct housing or buildings onsite;

(4) one member who is an engineer licensed in this state who acts as a structural engineer;

(5) one member who is an engineer licensed in this state who acts as an electrical engineer; and

(6) one member who is an architect registered in this state.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.052. Membership Restrictions.

An engineer or architect member of the council may not:

(1) be designated as, be employed by, or have an ownership interest in, an entity that is a third-party inspector or design review agency;

(2) have an ownership interest in a business that manufactures or builds industrialized housing or buildings;

(3) in a capacity relating to a matter subject to council review, be employed by or be a paid consultant to a manufacturer or builder of industrialized housing or buildings; or

(4) be an officer, employee, or paid consultant of a trade association that represents the industrialized housing or building industry.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.053. Terms.

Council members serve staggered two-year terms, with the terms of half of the members expiring on February 1 of each even-numbered year and the terms of the other half of the members expiring on February 1 of each odd-numbered year.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.054. Presiding Officer.

The council shall annually elect one of its members as the council's presiding officer.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.055. Secretary; Personnel.

The executive director shall:

(1) act as secretary of the council; and

(2) provide personnel from the department necessary to perform staff functions for the council.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 26.026, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.264, effective September 1, 2003.)

Sec. 1202.056. Reimbursement.

(a) A council member may be reimbursed for actual costs of travel to attend meetings but may not receive a per diem allowance for food or lodging.

(b) The travel costs shall be paid out of fees collected by the department under Section 1202.104.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.057. Quorum.

The vote of at least seven members present at a meeting or the written approval of at least seven members is required for the council to take an action or make a decision.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

SUBCHAPTER C
COUNCIL AND COMMISSION POWERS AND DUTIES

Sec. 1202.101. Rules; Orders.

(a) The commission shall adopt rules and issue orders as necessary to:

(1) ensure compliance with the purposes of this chapter; and

(2) provide for uniform enforcement of this chapter.

(b) The commission shall adopt rules as appropriate to implement the council's actions, decisions, interpretations, and instructions.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.003, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.264, effective September 1, 2003.)

Sec. 1202.102. Rules Providing for Registration and Regulation.

The commission by rule shall provide for registration and regulation of manufacturers or builders of industrialized housing or buildings.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.004, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.264, effective September 1, 2003.)

Sec. 1202.103. Continuing Education [Repealed].

Repealed by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.020(2), effective September 1, 2003.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.265, effective September 1, 2003.)

Sec. 1202.104. Fees.

(a) The commission shall set fees, in amounts sufficient to cover the costs of the inspections described by this chapter and the administration of this chapter, for:

(1) the registration of manufacturers or builders of industrialized housing or buildings;

(2) the inspection of industrialized housing or buildings; and

(3) the issuance of decals or insignia required under Section 1202.204.

(b) The fees shall be paid to the comptroller and placed in the general revenue fund, except that a fee for an inspection may be paid directly to an approved third-party inspector who performs the inspection.

(c) The building and permit fees charged by a municipality for an inspection of industrialized housing or buildings to be located in the municipality may not exceed the fees charged for the equivalent inspection of a building constructed on-site.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.005, effective September 1, 2003.)

Sec. 1202.105. Approval of Third-Party Inspectors and Design Review Agencies.

(a) The council shall establish criteria for the approval of, and approve accordingly, all third-party inspectors and design review agencies.

(b) The executive director shall recommend qualified third-party inspectors and design review agencies to the council.

(c) The executive director shall publish a list of all approved inspectors and design review agencies.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 26.027, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.266, effective September 1, 2003.)

Sec. 1202.106. Applicability of Other Law.

Sections 51.401 and 51.404 do not apply to this chapter.

(Enacted by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.006, effective September 1, 2003.)

Sec. 1202.107. Limitation on Certain Actions.

(a) Notwithstanding any other law, the commission, executive director, or department may not perform an inspection or investigation, open a complaint, or initiate an administrative or enforcement action against a manufacturer, builder, or third-party inspector of industrialized housing after the second anniversary of the date of the final on-site inspection of the industrialized housing conducted under Section 1202.203.

(b) The commission or executive director may impose a penalty or sanction in an enforcement action against a manufacturer, builder, or third-party inspector of industrialized housing only if the commission, executive director, or department initiates the enforcement action during the period prescribed by Subsection (a).

(Enacted by Acts 2013, 83rd Leg., ch. 27 (S.B. 672), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch.27 (S.B. 672), § 2 provides: "Section 1202.107, Occupations Code, as added by this Act, applies only to a complaint opened, administrative action or enforcement action initiated, or penalty imposed regarding industrialized housing that is the subject of an on-site inspection under Section 1202.203, Occupations Code, conducted on or after the effective date of this Act [September 1, 2013]."

SUBCHAPTER D REQUIREMENTS AND STANDARDS FOR INDUSTRIALIZED HOUSING AND BUILDINGS

Sec. 1202.151. Building Codes.

(a) In addition to complying with Subsection (b) or (c), as applicable, industrialized housing and buildings must be constructed to meet or exceed the requirements and standards of the National Electrical Code, published by the National Fire Protection Association, as that code existed on January 1, 1985.

(b) Industrialized housing and buildings erected or installed in a municipality must be constructed to meet or exceed the requirements and standards of whichever of the following two groups of codes is used by the municipality:

(1) the Uniform Building Code, Uniform Plumbing Code, and Uniform Mechanical Code, published by the International Conference of Building Officials, as those codes existed on January 1, 1985; or

(2) the Standard Building Code, Standard Mechanical Code, Standard Plumbing Code, and Standard Gas Code, published by the Southern Building Code Congress International, Inc., as those codes existed on January 1, 1985.

(c) Industrialized housing and buildings erected or installed outside a municipality or in a municipality that does not use a building code group described by Subsection (b)(1) or (2) must be constructed to meet or exceed the requirements and standards of whichever of those building code groups is selected by the manufacturer of the housing or buildings.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.152. Building Code Amendment.

If a code described by Section 1202.151 is amended after January 1, 1985, the requirements and standards of the amended code shall be used in place of the January 1, 1985, edition if the council determines that use of the amended code is:

(1) in the public interest; and

(2) consistent with the purposes of this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.153. Building Code Amendment: Municipality or Other Political Subdivision.

(a) A municipality or other political subdivision may not require or enforce, as a prerequisite for granting or approving a building or construction permit or certificate of occupancy, an amendment to a code described by Section 1202.151.

(b) On the petition of a local building official and after a hearing, the council may require a reasonable amendment to a building code group described by Section 1202.151(b)(1) or (2) that the council determines to be essential for public health and safety. The amendment shall be applied uniformly on a statewide basis.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.1535. Effect of Building Code Amendment.

(a) An industrialized building that bears an approved decal or insignia indicating that the building complies with the mandatory building codes and that has not been modified or altered is considered to be in compliance with a new mandatory building

code adopted by the council or an amendment to a code approved by the council under Section 1202.152 or 1202.153.

(b) The owner of an industrialized building designed to be transported from one commercial site to another that bears an approved decal or insignia indicating the building complies with the mandatory building codes and that is modified or altered after the date the council adopts a new mandatory building code or the council approves a building code amendment must ensure that the modified or altered building complies with the requirements and standards of the new building code or amendment to the extent required by the most recent edition of the International Existing Building Code adopted by the council.

(Enacted by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.007, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 698 (H.B. 2763), § 4, effective September 1, 2009.)

Sec. 1202.154. Design Review.

To ensure compliance with the mandatory building codes, the department or approved design review agency shall review all designs, plans, and specifications of industrialized housing and buildings in accordance with council interpretations and instructions.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.008, effective September 1, 2003.)

Sec. 1202.155. Council Stamp of Approval.

(a) The department or approved design review agency shall place the council's stamp of approval on each page of the designs, plans, and specifications of industrialized housing and buildings that:

(1) meet or exceed the code standards and requirements under council interpretations and instructions; and

(2) are approved by the department or design review agency.

(b) Each page of the designs, plans, and specifications must bear the council's stamp of approval if the designs, plans, and specifications satisfy the requirements of Subsection (a)(1) and are approved in accordance with Subsection (a)(2).

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.156. Council Determination of Certain Questions Related to Industrialized Housing and Buildings.

(a) The council shall determine all questions raised by a municipality in connection with the review of designs, plans, and specifications of industrialized housing and buildings, as authorized by Section 1202.252.

(b) With reference to the standards and requirements of the mandatory building codes, the council shall determine, from an engineering performance standpoint, all questions concerning:

(1) code equivalency; or

(2) alternative materials or methods of construction.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.009, effective September 1, 2003.)

Sec. 1202.157. Council Decisions Binding.

The decisions, actions, and interpretations of the council are binding on the department, third-party inspectors, design review agencies, and municipalities and other political subdivisions.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

SUBCHAPTER E
INSPECTIONS

Sec. 1202.201. Inspection Procedures.

The council may issue instructions to establish procedures for inspecting the construction and installation of industrialized housing and buildings to ensure compliance with approved designs, plans, and specifications.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003.)

Sec. 1202.202. Department Inspections.

(a) To ensure compliance with the mandatory building codes or approved designs, plans, and specifications, the department shall inspect the construction of industrialized housing and buildings. The executive director may designate approved third-party inspectors to perform the inspections subject to the rules of the commission.

(b) Local building officials may witness department inspections to enable the local officials to make recommendations on inspection procedures to the council.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.010, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.267, effective September 1, 2003.)

Sec. 1202.203. On-Site Inspections.

(a) A municipal building official shall inspect all construction involving industrialized housing and buildings to be located in the municipality to ensure compliance with designs, plans, and specifications, including inspection of:

(1) the construction of the foundation system; and

(2) the erection and installation of the modules or modular components on the foundation.

(b) An approved third-party inspector shall perform on-site inspections of industrialized housing to be located outside the municipality.

(c) An inspection under Subsection (a) shall be conducted:

(1) at the permanent site, if the inspection is of industrialized housing; and

(2) at the commercial site, if the inspection is of industrialized buildings.

(d) If required by commission rule, an approved third-party inspector shall perform on-site inspections of industrialized buildings to be located outside the municipality.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.011, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 714 (S.B. 443), § 3, effective September 1, 2005.)

Sec. 1202.204. Rules Providing for Decals or Insignia.

(a) The commission by rule shall provide for the placement of decals or insignia on each transportable modular section or modular component to indicate compliance with the mandatory building codes.

(b) The commission by rule shall exempt a construction site building from the requirements of this section.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.012, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.268, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 714 (S.B. 443), § 4, effective September 1, 2005.)

Sec. 1202.205. Reciprocity.

(a) The commission by rule may authorize an inspection of industrialized housing or buildings constructed in another state to be performed by an inspector of the equivalent regulatory agency of the other state.

(b) The commission by rule may authorize an inspection of industrialized housing or buildings constructed in this state for use in another state.

(c) The commission shall enter into a reciprocity agreement with the equivalent regulatory agency of the other state as necessary to implement this section.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.013, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.268, effective September 1, 2003.)

SUBCHAPTER F
MUNICIPAL AUTHORITY

Sec. 1202.251. Reservation of Municipal Authority.

(a) Municipal authority is specifically and entirely reserved to a municipality, including, as applicable:

(1) land use and zoning requirements;

(2) building setback requirements;

(3) side and rear yard requirements;

(4) site planning and development and property line requirements;

(5) subdivision control; and

(6) landscape architectural requirements.

(b) Except as provided by Section 1202.253, requirements and regulations not in conflict with this chapter or with other state law relating to transportation, erection, installation, or use of industrialized housing or buildings must be reasonably and uniformly applied and enforced without distinctions as to whether the housing or buildings are manufactured or are constructed on-site.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 363 (S.B. 1326), § 1, effective June 18, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.014, effective September 1, 2003.)

Sec. 1202.252. Municipal Regulation of Industrialized Housing and Buildings.

(a) A municipality that regulates the on-site construction or installation of industrialized housing and buildings may:

(1) require and review, for compliance with mandatory building codes, a complete set of designs, plans, and specifications bearing the council's stamp of approval for each installation of industrialized housing or buildings in the municipality;

(2) require that all applicable local permits and licenses be obtained before construction begins on a building site;

(3) require, in accordance with commission rules, that all modules or modular components

bear an approved decal or insignia indicating inspection by the department; and

(4) establish procedures for the inspection of:

(A) the erection and installation of industrialized housing or buildings to be located in the municipality, to ensure compliance with mandatory building codes and commission rules; and

(B) all foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

(b) Procedures described by Subsection (a)(4) may require:

(1) before occupancy, a final inspection or test in accordance with mandatory building codes; and

(2) correction of any deficiency identified by the test or discovered in the final inspection.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.015, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.269, effective September 1, 2003.)

Sec. 1202.253. Municipal Regulation of Single-Family and Duplex Industrialized Housing.

(a) Single-family or duplex industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(b) For purposes of this section, single-family or duplex industrialized housing is real property.

(c) A municipality may adopt regulations that require single-family or duplex industrialized housing to:

(1) have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;

(2) **[2 Versions: As added by Acts 2003, 78th Leg., ch. 363]** have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(2) **[2 Versions: As added by Acts 2003, 78th Leg., ch. 816]** have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;

(3) comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings; or

(4) be securely fixed to a permanent foundation.

(d) For purposes of Subsection (c), "value" means the taxable value of the industrialized housing and the lot after installation of the housing.

(e) Except as provided by Subsection (c), a municipality may not adopt a regulation under this section that is more restrictive for industrialized housing than that required for a new single-family or duplex dwelling constructed on-site.

(f) This section does not:

(1) limit the authority of a municipality to adopt regulations to protect historic properties or historic districts; or

(2) affect deed restrictions.

(Enacted by Acts 2003, 78th Leg., ch. 363 (S.B. 1326), § 2, effective June 18, 2003; Enacted by Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.016, effective September 1, 2003.)

SUBCHAPTER G
PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

Sec. 1202.301. Prohibited Practices.

(a) In this section, "person" means an individual, partnership, company, corporation, association, or other group, however organized.

(b) A person may not construct, sell or offer to sell, lease or offer to lease, or transport over a street or highway of this state any industrialized housing or building, or modular section or component of a modular section, in violation of this chapter or a rule of the commission or order of the commission or executive director.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.017, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.270, effective September 1, 2003.)

Sec. 1202.302. Denial of Certificate; Disciplinary Action.

In addition to imposing sanctions allowed under Section 51.353, the commission may deny, permanently revoke, or suspend for a definite period and specified location or geographic area a certificate of registration if the commission finds that the applicant or registrant:

(1) provided false information on an application or other document filed with the department;

(2) failed to pay a fee or file a report required by the department for the administration or enforcement of this chapter;

(3) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code; or

(4) violated:

(A) this chapter;

(B) a rule adopted by the commission or order issued by the commission or the executive director under this chapter; or

(C) a decision, action, or interpretation of the council.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.018, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.271, effective September 1, 2003.)

SUBCHAPTER H
PENALTIES
[REPEALED]

Sec. 1202.351. Criminal Penalty [Repealed].

Repealed by Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 5(6), effective May 18, 2013.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 2, effective June 1, 2003; am. Acts 2003, 78th Leg., ch. 816 (S.B. 279), § 10.019, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.272, effective September 1, 2003.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 110 (S.B. 972), § 6 provides: "The repeal of an offense by this Act does not apply to an offense committed before the effective date of the repeal. An offense committed before the effective date of the repeal is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of the repeal if any element of the offense occurred before that date."

TITLE 10
OCCUPATIONS RELATED TO LAW ENFORCEMENT AND SECURITY

CHAPTER 1701
LAW ENFORCEMENT OFFICERS

Subchapter M. Visiting Resource Officer in Public School

Section

SUBCHAPTER M
VISITING RESOURCE OFFICER IN PUBLIC SCHOOL

Sec. 1701.601. Definition.

In this subchapter, "school resource officer" means a peace officer who is assigned by the officer's employing political subdivision to provide:

(1) a police presence at a public school;

(2) safety or drug education to students of a public school; or

(3) other similar services.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 2, effective September 1, 2001.)

Sec. 1701.602. License Required.

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 2, effective September 1, 2001.)

Sec. 1701.603. Firearms Accident Prevention Program.

(a) A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the school district.

(b) A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle GunSafe Program, including animated videos and activity books.

(Enacted by Acts 2001, 77th Leg., ch. 923 (S.B. 430), § 2, effective September 1, 2001.)

TITLE 12
PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND SAFETY

SUBTITLE B
PRACTICES RELATED TO HEALTH AND SAFETY

CHAPTER 1951
STRUCTURAL PEST CONTROL

Subchapter E. Powers and Duties of Department Relating to Structural Pest Control

Section

SUBCHAPTER E
POWERS AND DUTIES OF DEPARTMENT RELATING TO STRUCTURAL PEST CONTROL

Sec. 1951.212. Integrated Pest Management Programs for School Districts.

(a) The department shall establish standards for an integrated pest management program for the use of pesticides, herbicides, and other chemical agents to control pests, rodents, insects, and weeds at the school buildings and other facilities of school districts.

(b) The department shall use the structural pest control advisory committee to assist the department in developing the standards for the integrated pest management program. In developing the standards, the advisory committee shall consult with a person knowledgeable in the area of integrated pest management in schools.

(c) The department shall include in standards adopted under this section a requirement to use the least toxic methods available to control pests, rodents, insects, and weeds.

(d) The department by rule shall establish categories of pesticides that a school district is allowed to apply. For each category, the department shall specify:

(1) the minimum distance a school district must maintain between an area where pesticides are being applied and an area where students are present at the time of application;

(2) the minimum amount of time a school district is required to wait before allowing students to enter an indoor or outdoor area in a school building or on school grounds for normal academic instruction or organized extracurricular activities after pesticides have been applied;

(3) the requirements for posting notice of the indoor and outdoor use of pesticides;

(4) the requirements for obtaining approval before applying the pesticide; and

(5) the requirements for maintaining records of the application of pesticides.

(e) Each school district shall:

(1) adopt an integrated pest management program that incorporates the standards established by the department under this section;

(2) designate an integrated pest management coordinator for the district; and

(3) report to the department not later than the 90th day after the date the district designates or replaces an integrated pest management coordinator the name, address, telephone number, and e-mail address of the district's current coordinator.

(f) Each person who is designated as the integrated pest management coordinator for a school district shall successfully complete six hours of continuing education in integrated pest management every three years.

(g) The department shall inspect each school district at least once every five years for compliance with this section and may conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) whether there has been a prior violation by the school district;

(2) the inspection history of the school district;

(3) any history of complaints involving the school district; and

(4) any other factor determined by the department by rule.

(Enacted by Acts 2001, 77th Leg., ch. 1421 (H.B. 2813), § 4, effective June 1, 2003; am. Acts 2007, 80th Leg., ch. 890 (H.B. 2458), § 1.26, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 506 (S.B. 1016), § 7.10, effective September 1, 2009.)

TITLE 13
SPORTS, AMUSEMENTS, ENTERTAINMENT

SUBTITLE A
GAMING

CHAPTER 2002
CHARITABLE RAFFLES

Subchapter A. General Provisions

Subchapter B. Operation of Raffle

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 2002.001. Short Title.

This chapter may be cited as the Charitable Raffle Enabling Act.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 2002.002. Definitions.

In this chapter:

(1) "Charitable purposes" means:

(A) benefitting needy or deserving persons in this state, indefinite in number, by:

(i) enhancing their opportunities for religious or educational advancement;

(ii) relieving them from disease, suffering, or distress;

(iii) contributing to their physical well-being;

(iv) assisting them in establishing themselves in life as worthy and useful citizens; or

(v) increasing their comprehension of and devotion to the principles on which this nation was founded and enhancing their loyalty to their government;

(B) initiating, performing, or fostering worthy public works in this state; or

(C) enabling or furthering the erection or maintenance of public structures in this state.

(1-a) "Money" means coins, paper currency, or a negotiable instrument that represents and is readily convertible to coins or paper currency.

(2) "Qualified organization" means a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization.

(3) "Qualified religious society" means a church, synagogue, or other organization or association organized primarily for religious purposes that:

(A) has been in existence in this state for at least 10 years; and

(B) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services or for reimbursement of expenses.

(4) "Qualified volunteer emergency medical service" means an association that:

(A) is organized primarily to provide and actively provides emergency medical, rescue, or ambulance services;

(B) does not pay its members compensation other than nominal compensation; and

(C) does not distribute any of its income to its members, officers, or governing body other than for reimbursement of expenses.

(5) "Qualified volunteer fire department" means an association that:

(A) operates fire-fighting equipment;

(B) is organized primarily to provide and actively provides fire-fighting services;

(C) does not pay its members compensation other than nominal compensation; and

(D) does not distribute any of its income to its members, officers, or governing body, other than for reimbursement of expenses.

(6) "Raffle" means the award of one or more prizes by chance at a single occasion among a single pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize.

(7) "Reverse raffle" means a raffle in which the last ticket or tickets drawn are considered the winning tickets.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 929 (H.B. 541), § 1, effective June 18, 2005; am. Acts 2005, 79th Leg., ch. 1006 (H.B. 659), § 1, effective September 1, 2005.)

Sec. 2002.003. Qualified Nonprofit Organization.

(a) An organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is a qualified nonprofit organization for the purposes of this chapter if the organization:

(1) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(2) has existed for the three preceding years;

(3) does not devote a substantial part of its activities to attempting to influence legislation and does not participate or intervene in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions;

(4) qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986; and

(5) does not have or recognize any local chapter, affiliate, unit, or subsidiary organization in this state.

(b) An organization that is formally recognized as and that operates as a local chapter, affiliate, unit, or subsidiary organization of a parent organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is a qualified nonprofit organization if:

(1) neither the local organization nor the parent organization distributes any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(2) the local organization has existed for the three preceding years and during those years has been formally recognized as a local chapter, affiliate, unit, or subsidiary organization of the parent organization;

(3) neither the local organization nor the parent organization:

(A) devotes a substantial part of its activities to attempting to influence legislation; or

(B) participates or intervenes in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions; and

(4) either the local organization or the parent organization qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986.

(b-1) An organization that is formally recognized as and that operates as a local chapter, affiliate, unit, or subordinate lodge of a grand lodge or other institution or order incorporated under Title 32, Revised Statutes, as authorized by Article 1399, Revised Statutes, is a qualified nonprofit organization if:

(1) neither the local organization nor the incorporated grand lodge or other institution or order distributes any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(2) the local organization has existed for the three preceding years and during those years:

(A) has had a governing body or officers elected by a vote of its members or by a vote of delegates elected by its members; or

(B) has been formally recognized as a local chapter, affiliate, unit, or subordinate lodge of the grand lodge or other institution or order;

(3) neither the local organization nor the incorporated grand lodge or other institution or order:

(A) devotes a substantial part of its activities to attempting to influence legislation; or

(B) participates or intervenes in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions; and

(4) either the local organization or the incorporated grand lodge or other institution or order qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986, or other applicable provision.

(c) An unincorporated organization, association, or society is a qualified nonprofit organization if it:

(1) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(2) for the three preceding years has been affiliated with a state or national organization organized to perform the same purposes as the unincorporated organization, association, or society;

(3) does not devote a substantial part of its activities to attempting to influence legislation and does not participate or intervene in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions; and

(4) qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986.

(d) An organization, association, or society is considered to devote a substantial part of its activities to attempting to influence legislation for purposes of this section if, in any 12-month period in the preceding three years, more than 10 percent of the organization's expenditures were made to influence legislation.

(e) A nonprofit wildlife conservation association and its local chapters, affiliates, wildlife cooperatives, or units are qualified nonprofit organizations under this chapter if the parent association meets the eligibility criteria under this section other than the requirement prescribed by Subsection (a)(3), (b)(3), (b-1)(3), or (c)(3), as applicable. An association or a local chapter, affiliate, wildlife cooperative, or unit that is eligible under this subsection may not use any proceeds from a raffle conducted under this chapter to attempt to influence legislation or participate or intervene in a political campaign on behalf of a candidate for public office in any manner, including by publishing or distributing a statement or making a campaign contribution. A nonprofit wildlife conservation association may conduct two raffles each year and each local chapter, affiliate, wildlife cooperative, or unit may conduct two raffles each year under this chapter. For purposes of this section, a nonprofit wildlife conservation association includes an association that supports wildlife, fish, or fowl.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 34 (S.B. 766), § 1, effective May 9, 2005; am. Acts 2005, 79th Leg., ch. 929 (H.B. 541), § 2, effective June 18, 2005; am. Acts 2009, 81st Leg., ch. 936 (H.B. 3113), § 1, effective June 19, 2009.)

Sec. 2002.004. Imputed Actions of Organization.

For purposes of this chapter, an organization performs an act if a member, officer, or agent of the organization performs the act with the consent or authorization of the organization.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

SUBCHAPTER B
OPERATION OF RAFFLE

Sec. 2002.051. Raffle Authorized.

A qualified organization may conduct a raffle subject to the conditions imposed by this subchapter.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 2002.052. Time and Frequency Restrictions.

(a) In this section, "calendar year" means a period beginning January 1 and ending on the succeeding December 31.

(b) A raffle is not authorized by this chapter if the organization sells or offers to sell tickets for or awards prizes in the raffle in a calendar year in which the organization has previously sold or offered to sell tickets for or awarded prizes in two or more other raffles.

(c) The organization may not sell or offer to sell tickets for a raffle during a period in which the organization sells or offers to sell tickets for another raffle. If an organization violates this subsection, neither of the raffles is authorized.

(d) Before selling or offering to sell tickets for a raffle, a qualified organization shall set a date on which the organization will award the prize or prizes in a raffle. The organization must award the prize or prizes on that date unless the organization becomes unable to award the prize or prizes on that date.

(e) A qualified organization that is unable to award a prize or prizes on the date set under Subsection (d) may set another date not later than 30 days from the date originally set on which the organization will award the prize or prizes.

(f) If the prize or prizes are not awarded within the 30 days as required by Subsection (e), the organization must refund or offer to refund the amount paid by each person who purchased a ticket for the raffle.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 597 (H.B. 1813), § 1, effective September 1, 2003.)

Sec. 2002.053. Use of Raffle Proceeds.

All proceeds from the sale of tickets for a raffle must be spent for the charitable purposes of the qualified organization.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 929 (H.B. 541), § 3, effective June 18, 2005.)

Sec. 2002.054. Restrictions on Raffle Promotion and Ticket Sales.

(a) The organization may not:

(1) directly or indirectly, by the use of paid advertising, promote a raffle through a medium of mass communication, including television, radio, or newspaper;

(2) promote or advertise a raffle statewide, other than on the organization's Internet website

or through a publication or solicitation, including a newsletter, social media, or electronic mail, provided only to previously identified supporters of the organization; or

(3) sell or offer to sell tickets for a raffle statewide.

(b) Except as provided by this subsection, the organization may not compensate a person directly or indirectly for organizing or conducting a raffle or for selling or offering to sell tickets to a raffle. A member of the organization who is employed by the organization may organize and conduct a raffle, but the member's work organizing or conducting a raffle may not be more than a de minimis portion of the member's employment with the organization.

(c) Except as provided by Section 2002.0541, the organization may not permit a person who is not authorized by the organization to sell or offer to sell raffle tickets.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 929 (H.B. 541), § 4, effective June 18, 2005; am. Acts 2005, 79th Leg., ch. 1006 (H.B. 659), § 2, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 12.003, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 124 (H.B. 457), § 1, effective May 27, 2011.)

Sec. 2002.0541. Reverse Raffle.

(a) A qualified organization may conduct a reverse raffle as provided by this section.

(b) Notwithstanding Section 2002.056(a), a refund of the purchase price of a ticket may be awarded as a raffle prize in a reverse raffle.

(c) Notwithstanding Section 2002.055(3), after the drawing of tickets in a reverse raffle has begun, the qualified organization conducting the raffle may auction off additional tickets to persons who are present at the drawing for a price other than the price printed on the ticket.

(d) After the drawing of tickets in a reverse raffle has begun, the qualified organization may permit a ticket holder present at the drawing to resell the ticket to another person present at the drawing for an amount greater than the original purchase price of the ticket. The sale must be made through a designated representative of the organization, and not less than 10 percent of the sale proceeds must be retained by the organization.

(e) Notwithstanding Section 2002.055(3), after the drawing of tickets in a reverse raffle has begun, the qualified organization may permit the holder of a previously drawn ticket:

(1) to purchase additional chances for the ticket to be selected to win a prize; or

(2) to purchase additional tickets for the raffle.

(f) Only the portion of the proceeds from the resale of a ticket under Subsection (d) retained by the organization are subject to Section 2002.053. All proceeds from the sale of additional chances for a ticket under Subsection (e) are considered to be proceeds from the sale of the ticket for purposes of Section 2002.053.

(Enacted by Acts 2005, 79th Leg., ch. 1006 (H.B. 659), § 3, effective September 1, 2005.)

Sec. 2002.055. Ticket Disclosures.

The following information must be printed on each raffle ticket sold or offered for sale:

(1) the name of the organization conducting the raffle;

(2) the address of the organization or of a named officer of the organization;

(3) the ticket price;

(4) a general description of each prize having a value of more than $10 to be awarded in the raffle; and

(5) the date on which the raffle prize or prizes will be awarded.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 597 (H.B. 1813), § 2, effective September 1, 2003.)

Sec. 2002.056. Restrictions on Prizes.

(a) A prize offered or awarded at a raffle may not be money.

(b) Except as provided by Subsections (b-1) and (c), the value of a prize offered or awarded at a raffle that is purchased by the organization or for which the organization provides any consideration may not exceed $50,000.

(b-1) The value of a residential dwelling offered or awarded as a prize at a raffle that is purchased by the organization or for which the organization provides any consideration may not exceed $250,000.

(c) A raffle prize may consist of one or more tickets in the state lottery authorized by Chapter 466, Government Code, with a face value of $50,000 or less, without regard to whether a prize in the lottery game to which the ticket or tickets relate exceeds $50,000.

(d) A raffle is not authorized by this chapter unless the organization:

(1) has the prize to be offered in the raffle in its possession or ownership; or

(2) posts bond with the county clerk of the county in which the raffle is to be held for the full amount of the money value of the prize.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999; am. Acts

2005, 79th Leg., ch. 929 (H.B. 541), § 5, effective June 18, 2005.)

STATUTORY NOTES

Applicability. — Acts 2005, 79th Leg., ch. 929, § 6, provides: "The change in law made by this Act to Section 2002.056, Occupations Code, applies to a raffle conducted under Chapter 2002, Occupations Code, only if the prizes are awarded on or after the effective date of this Act. A raffle for which the prizes are awarded before the effective date of this Act is covered by the law in effect when the prizes were awarded, and the former law is continued in effect for purposes of any criminal liability arising under that law before the effective date of this Act."

Sec. 2002.057. Ticket Sale on University Property.

An institution of higher education, as defined by Section 61.003, Education Code, shall allow a qualified organization that is a student organization recognized by the institution to sell raffle tickets at any facility of the institution, subject to reasonable restrictions on the time, place, and manner of the sale.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Sec. 2002.058. Injunctive Action Against Unauthorized Raffle.

(a) A county attorney, district attorney, criminal district attorney, or the attorney general may bring an action in county or district court for a permanent or temporary injunction or a temporary restraining order prohibiting conduct involving a raffle or similar procedure that:

(1) violates or threatens to violate state law relating to gambling; and

(2) is not authorized by this chapter or other law.

(b) Venue for an action under this section is in the county in which the conduct occurs or in which a defendant in the action resides.

(Enacted by Acts 1999, 76th Leg., ch. 388 (H.B. 3155), § 1, effective September 1, 1999.)

Penal Code

TITLE 2
GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 9
JUSTIFICATION EXCLUDING CRIMINAL RESPONSIBILITY

Subchapter F. Special Relationships

SUBCHAPTER F
SPECIAL RELATIONSHIPS

Sec. 9.62. Educator—Student.

The use of force, but not deadly force, against a person is justified:

(1) if the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and

(2) when and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

TITLE 4
INCHOATE OFFENSES

CHAPTER 15
PREPARATORY OFFENSES

Sec. 15.01. Criminal Attempt.

(a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

(b) If a person attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

(d) An offense under this section is one category lower than the offense attempted, and if the offense attempted is a state jail felony, the offense is a Class A misdemeanor.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 203 (H.B. 284), § 4, effective September 1, 1975; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

TITLE 5
OFFENSES AGAINST THE PERSON

CHAPTER 19
CRIMINAL HOMICIDE

Sec. 19.02. Murder.

(a) In this section:

(1) "Adequate cause" means cause that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection.

(2) "Sudden passion" means passion directly caused by and arising out of provocation by the individual killed or another acting with the person killed which passion arises at the time of the offense and is not solely the result of former provocation.

(b) A person commits an offense if he:

(1) intentionally or knowingly causes the death of an individual;

(2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual; or

(3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether he caused the death under the immediate influence of sudden passion arising from an adequate cause. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1973, 63rd Leg., ch. 426 (H.B. 200), art. 2, § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 19.03. Capital Murder.

(a) A person commits an offense if the person commits murder as defined under Section 19.02(b)(1) and:

(1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;

(2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction or retaliation, or terroristic threat under Section 22.07(a)(1), (3), (4), (5), or (6);

(3) the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration;

(4) the person commits the murder while escaping or attempting to escape from a penal institution;

(5) the person, while incarcerated in a penal institution, murders another:

(A) who is employed in the operation of the penal institution; or

(B) with the intent to establish, maintain, or participate in a combination or in the profits of a combination;

(6) the person:

(A) while incarcerated for an offense under this section or Section 19.02, murders another; or

(B) while serving a sentence of life imprisonment or a term of 99 years for an offense under Section 20.04, 22.021, or 29.03, murders another;

(7) the person murders more than one person:

(A) during the same criminal transaction; or

(B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct;

(8) the person murders an individual under 10 years of age; or

(9) the person murders another person in retaliation for or on account of the service or status of the other person as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

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

(c) If the jury or, when authorized by law, the judge does not find beyond a reasonable doubt that the defendant is guilty of an offense under this section, he may be convicted of murder or of any other lesser included offense.

(Enacted by Acts 1973, 63rd Leg., ch. 426 (H.B. 200), art. 2, § 1, effective January 1, 1974; am. Acts 1983, 68th Leg., ch. 977 (H.B. 2008), § 6, effective September 1, 1983; am. Acts 1985, 69th Leg., ch. 44 (H.B. 8), § 1, effective September 1, 1985; am. Acts 1991, 72nd Leg., ch. 652 (H.B. 9), § 13, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 715 (S.B. 818), § 1, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 887 (S.B. 13), § 1, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 2003, 78th Leg., ch. 388 (H.B. 11), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 428 (S.B. 1791), § 1, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 1209 (S.B. 377), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1209 (S.B. 377), § 2 provides: "The change in law made by this Act applies only to an

offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 19.04. Manslaughter.

(a) A person commits an offense if he recklessly causes the death of an individual.

(b) An offense under this section is a felony of the second degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1973, 63rd Leg., ch. 426 (H.B. 200), art. 2, § 1, effective January 1, 1974 (renumbered from Sec. 19.03); am. Acts 1987, 70th Leg., ch. 307 (S.B. 120), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 19.05).)

Sec. 19.05. Criminally Negligent Homicide.

(a) A person commits an offense if he causes the death of an individual by criminal negligence.

(b) An offense under this section is a state jail felony.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1973, 73rd Leg., ch. 426 (H.B. 200), art. 2, § 1, effective January 1, 1974 (renumbered from Sec. 19.06); am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 19.07).)

CHAPTER 20
KIDNAPPING, UNLAWFUL RESTRAINT, AND SMUGGLING OF PERSONS

Section

Sec. 20.02. Unlawful Restraint.

(a) A person commits an offense if he intentionally or knowingly restrains another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child younger than 14 years of age;

(2) the actor was a relative of the child; and

(3) the actor's sole intent was to assume lawful control of the child.

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the person restrained was a child younger than 17 years of age; or

(2) a felony of the third degree if:

(A) the actor recklessly exposes the victim to a substantial risk of serious bodily injury;

(B) the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; or

(C) the actor while in custody restrains any other person.

(d) It is no offense to detain or move another under this section when it is for the purpose of effecting a lawful arrest or detaining an individual lawfully arrested.

(e) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child who is 14 years of age or older and younger than 17 years of age;

(2) the actor does not restrain the child by force, intimidation, or deception; and

(3) the actor is not more than three years older than the child.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 707 (S.B. 1835), §§ 1(b), 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 790 (H.B. 1428), § 2, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 524 (H.B. 2098), § 1, effective September 1, 2001.)

Sec. 20.03. Kidnapping.

(a) A person commits an offense if he intentionally or knowingly abducts another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the abduction was not coupled with intent to use or to threaten to use deadly force;

(2) the actor was a relative of the person abducted; and

(3) the actor's sole intent was to assume lawful control of the victim.

(c) An offense under this section is a felony of the third degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 20.04. Aggravated Kidnapping.

(a) A person commits an offense if he intention-

ally or knowingly abducts another person with the intent to:

(1) hold him for ransom or reward;

(2) use him as a shield or hostage;

(3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;

(4) inflict bodily injury on him or violate or abuse him sexually;

(5) terrorize him or a third person; or

(6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 4, effective September 1, 1995.)

Sec. 20.05. Smuggling of Persons.

(a) A person commits an offense if the person intentionally uses a motor vehicle, aircraft, or watercraft to transport an individual with the intent to:

(1) conceal the individual from a peace officer or special investigator; or

(2) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor.

(b) Except as provided by Subsection (c), an offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if the actor commits the offense:

(1) for pecuniary benefit; or

(2) in a manner that creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.

(d) It is an affirmative defense to prosecution under this section that the actor is related to the transported individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(Enacted by Acts 1999, 76th Leg., ch. 1014 (H.B. 2879), § 1, effective September 1, 1999; am. Acts 2011, 82nd Leg., ch. 223 (H.B. 260), § 2, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 223 (H.B. 260), § 6 provides: "The changes in law made by this Act in amending Sections 20.05 and 71.02, Penal Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

CHAPTER 20A
TRAFFICKING OF PERSONS

Section

Sec. 20A.02. Trafficking of Persons.

(a) A person commits an offense if the person knowingly:

(1) traffics another person with the intent that the trafficked person engage in forced labor or services;

(2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;

(3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by:

(A) Section 43.02 (Prostitution);

(B) Section 43.03 (Promotion of Prostitution);

(C) Section 43.04 (Aggravated Promotion of Prostitution); or

(D) Section 43.05 (Compelling Prostitution);

(4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);

(5) traffics a child with the intent that the trafficked child engage in forced labor or services;

(6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

(7) traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

(A) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(B) Section 21.11 (Indecency with a Child);

(C) Section 22.011 (Sexual Assault);

(D) Section 22.021 (Aggravated Sexual Assault);

(E) Section 43.02 (Prostitution);

(F) Section 43.03 (Promotion of Prostitution);

(G) Section 43.04 (Aggravated Promotion of Prostitution);

(H) Section 43.05 (Compelling Prostitution);

(I) Section 43.25 (Sexual Performance by a Child);

(J) Section 43.251 (Employment Harmful to Children); or

(K) Section 43.26 (Possession or Promotion of Child Pornography); or

(8) receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(d) If the victim of an offense under Subsection (a)(7)(A) is the same victim as a victim of an offense under Section 21.02, a defendant may not be convicted of the offense under Section 21.02 in the same criminal action as the offense under Subsection (a)(7)(A) unless the offense under Section 21.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a)(7)(A) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a)(7)(A).

(Enacted by Acts 2003, 78th Leg., ch. 641 (H.B. 2096), § 2, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 16.02, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 849 (H.B. 1121), § 5, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1002 (H.B. 4009), § 7, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 1.02, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1002 (H.B. 4009), § 10(d) provides: "The changes in law made by this Act to Sections 20A.02, 43.02, and 43.05, Penal Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 7.01 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

CHAPTER 21
SEXUAL OFFENSES

Section

Sec. 21.07. Public Lewdness.

(a) A person commits an offense if he knowingly engages in any of the following acts in a public place or, if not in a public place, he is reckless about whether another is present who will be offended or alarmed by his:

(1) act of sexual intercourse;

(2) act of deviate sexual intercourse;

(3) act of sexual contact; or

(4) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.

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

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 21.08. Indecent Exposure.

(a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

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

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1983, 68th Leg., ch. 924 (H.B. 1686), § 1, effective September 1, 1983; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 21.11. Indecency with a Child.

(a) A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex, the person:

(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or

(2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

(b) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than three years older than the victim and of the opposite sex;

(2) did not use duress, force, or a threat against the victim at the time of the offense; and

(3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

(b-1) It is an affirmative defense to prosecution under this section that the actor was the spouse of the child at the time of the offense.

(c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

(1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or

(2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1981, 67th Leg., ch. 202 (S.B. 126), § 3, effective September 1, 1981; am. Acts 1987, 70th Leg., ch. 1028 (H.B. 2575), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 23, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 739 (S.B. 932), § 2, effective September 1, 2001; am. Acts 2009, 81st Leg., ch. 260 (H.B. 549), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 260 (H.B. 549), § 6 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 21.12. Improper Relationship Between Educator and Student.

(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if:

(i) students enrolled in a public or private primary or secondary school are the primary participants in the activity; and

(ii) the employee provides education services to those participants; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b) An offense under this section is a felony of the second degree.

(b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense; or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

(Enacted by Acts 2003, 78th Leg., ch. 224 (H.B. 532), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 610 (H.B. 401), § 1, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 772 (H.B. 3659), § 1, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 260 (H.B. 549), § 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 3, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 260 (H.B. 549), § 6 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 5 provides: "The change in law made by this Act to Section 21.12, Penal Code, applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 761 (H.B. 1610), § 6 provides: "This Act applies beginning with the 2011-2012 school year."

Sec. 21.15. Improper Photography or Visual Recording.

(a) In this section, "promote" has the meaning assigned by Section 43.21.

(b) A person commits an offense if the person:

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is not a bathroom or private dressing room:

(A) without the other person's consent; and

(B) with intent to arouse or gratify the sexual desire of any person;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is a bathroom or private dressing room:

(A) without the other person's consent; and

(B) with intent to:

(i) invade the privacy of the other person; or

(ii) arouse or gratify the sexual desire of any person; or

(3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).

(c) An offense under this section is a state jail felony.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(e) For purposes of Subsection (b)(2), a sign or signs posted indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or transmitted is not sufficient to establish the person's consent under that subdivision.

(Enacted by Acts 2001, 77th Leg., ch. 458 (H.B. 73), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 500 (H.B. 1060), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 306 (H.B. 1804), § 1, effective September 1, 2007.)

CHAPTER 22
ASSAULTIVE OFFENSES

Section

Sec. 22.01. Assault.

(a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an

exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(5) a person the actor knows is emergency services personnel while the person is providing emergency services.

(b-1) Notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second degree if:

(1) the offense is committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual, as those terms are defined by Section 22.04; or

(2) a Class B misdemeanor if the offense is committed by a person who is not a sports participant against a person the actor knows is a sports participant either:

(A) while the participant is performing duties or responsibilities in the participant's capacity as a sports participant; or

(B) in retaliation for or on account of the participant's performance of a duty or responsibility within the participant's capacity as a sports participant.

(d) For purposes of Subsection (b), the actor is presumed to have known the person assaulted was a public servant, a security officer, or emergency services personnel if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer or emergency services personnel.

(e) In this section:

(1) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section 773.003, Health and Safety Code, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

(2) [Repealed by Acts 2005, 79th Leg., ch. 788 (S.B. 91), § 6, effective September 1, 2005.]

(3) "Security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.

(4) "Sports participant" means a person who participates in any official capacity with respect to an interscholastic, intercollegiate, or other organized amateur or professional athletic competition and includes an athlete, referee, umpire, linesman, coach, instructor, administrator, or staff member.

(f) For the purposes of Subsections (b)(2)(A) and (b-1)(2):

(1) a defendant has been previously convicted of an offense listed in those subsections committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in

return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections is a conviction of the offense listed.

(g) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1977, 65th Leg., 1st C.S., ch. 2 (S.B. 9), §§ 12, 13, effective July 22, 1977; am. Acts 1979, 66th Leg., ch. 135 (H.B. 901), §§ 1, 2, effective August 27, 1979; am. Acts 1979, 66th Leg., ch. 164 (S.B. 529), § 2, effective September 1, 1979; am. Acts 1983, 68th Leg., ch. 977 (H.B. 2008), § 1, effective September 1, 1983; am. Acts 1987, 70th Leg., ch. 1052 (S.B. 298), § 2.08, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 739 (H.B. 1230), §§ 1—3, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 14 (S.B. 404), § 284(23)-(26), effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 334 (H.B. 1188), § 1, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 366 (H.B. 391), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 5, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 659 (S.B. 134), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), §§ 27.01, 31.01(68), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 15.02(a), effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1158 (S.B. 24), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 294 (H.B. 2525), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1019 (H.B. 565), §§ 1, 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1028 (H.B. 716), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), §§ 16.001, 16.002, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 788 (S.B. 91), §§ 1, 2, and 6, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 623 (H.B. 495), §§ 1, 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 427 (H.B. 2066), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 665 (H.B. 2240), § 2, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 875 (H.B. 705), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 427 (H.B. 2066), § 2 and Acts 2009, 81st Leg., ch. 665 (H.B. 2240), § 3 provide: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 22.011. Sexual Assault.

(a) A person commits an offense if the person:

(1) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(2) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of a child by any means;

(B) causes the penetration of the mouth of a child by the sexual organ of the actor;

(C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force or violence;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code.

(c) In this section:

(1) "Child" means a person younger than 17 years of age.

(2) "Spouse" means a person who is legally married to another.

(3) "Health care services provider" means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) a physical therapist licensed under Chapter 453, Occupations Code;

(D) a physician assistant licensed under Chapter 204, Occupations Code; or

(E) a registered nurse, a vocational nurse, or an advanced practice nurse licensed under Chapter 301, Occupations Code.

(4) "Mental health services provider" means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) licensed social worker as defined by Section 505.002, Occupations Code;

(B) chemical dependency counselor as defined by Section 504.001, Occupations Code;

(C) licensed professional counselor as defined by Section 503.002, Occupations Code;

(D) licensed marriage and family therapist as defined by Section 502.002, Occupations Code;

(E) member of the clergy;

(F) psychologist offering psychological services as defined by Section 501.003, Occupations Code; or

(G) special officer for mental health assignment certified under Section 1701.404, Occupations Code.

(5) "Employee of a facility" means a person who is an employee of a facility defined by Section 250.001, Health and Safety Code, or any other person who provides services for a facility for compensation, including a contract laborer.

(d) It is a defense to prosecution under Subsection (a)(2) that the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.

(e) It is an affirmative defense to prosecution under Subsection (a)(2):

(1) that the actor was the spouse of the child at the time of the offense; or

(2) that:

(A) the actor was not more than three years older than the victim and at the time of the offense:

(i) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(ii) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(B) the victim:

(i) was a child of 14 years of age or older; and

(ii) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(Enacted by Acts 1983, 68th Leg., ch. 977 (H.B. 2008), § 3, effective September 1, 1983; am. Acts 1985, 69th Leg., ch. 557 (H.B. 2139), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 1029 (H.B. 2576), § 1, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 662 (H.B. 263), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 273 (S.B. 286), § 1, effective September 1, 1995; am. Acts 1995,

74th Leg., ch. 318 (S.B. 15), § 6, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1031 (S.B. 542), §§ 1, 2, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1286 (S.B. 185), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1102 (H.B. 3479), § 3, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1415 (H.B. 2145), § 24, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 14.829, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 155 (S.B. 825), §§ 1, 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 528 (H.B. 1246), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 553 (H.B. 1483), § 2.017, effective February 1, 2004; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 4.02, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 260 (H.B. 549), §§ 3, 4, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 260 (H.B. 549), § 6 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 22.015. Coercing, Soliciting, or Inducing Gang Membership [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 435 (H.B. 2187), § 3, effective September 1, 2009.

(Enacted by Acts 1999, 76th Leg., ch. 708 (H.B. 861), § 1, effective September 1, 1999.)

Sec. 22.02. Aggravated Assault.

(a) A person commits an offense if the person commits assault as defined in Section 22.01 and the person:

(1) causes serious bodily injury to another, including the person's spouse; or

(2) uses or exhibits a deadly weapon during the commission of the assault.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(1) the actor uses a deadly weapon during the commission of the assault and causes serious bodily injury to a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

(B) against a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(C) in retaliation against or on account of the service of another as a witness, prospective witness, informant, or person who has reported the occurrence of a crime; or

(D) against a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(3) the actor is in a motor vehicle, as defined by Section 501.002, Transportation Code, and:

(A) knowingly discharges a firearm at or in the direction of a habitation, building, or vehicle;

(B) is reckless as to whether the habitation, building, or vehicle is occupied; and

(C) in discharging the firearm, causes serious bodily injury to any person.

(c) The actor is presumed to have known the person assaulted was a public servant or a security officer if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer.

(d) In this section, "security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1979, 66th Leg., ch. 164 (S.B. 529), § 3, effective September 1, 1979; am. Acts 1979, 66th Leg., ch. 655 (S.B. 846), § 2, effective September 1, 1979; am. Acts 1983, 68th Leg., ch. 79 (S.B. 173), § 1, effective September 1, 1983; am. Acts 1983, 68th Leg., ch. 977 (H.B. 2008), § 2, effective September 1, 1983; am. Acts 1985, 69th Leg., ch. 223 (S.B. 447), § 1, effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 18 (S.B. 251), § 3, effective April 14, 1987; am. Acts 1987, 70th Leg., ch. 1101 (S.B. 341), § 12, effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 939 (H.B. 9), §§ 1—3, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 334 (H.B. 1188), § 2, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 903 (H.B. 806), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 2003, 78th Leg., ch. 1019 (H.B. 565), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 788 (S.B. 91), § 3, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 594 (H.B. 176), § 2, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 594 (H.B. 176), § 3 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

Sec. 22.021. Aggravated Sexual Assault.

(a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(ii) by acts or words places the victim in fear that any person will become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause any person to become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

(vi) administers or provides flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

(C) the victim is an elderly individual or a disabled individual.

(b) In this section:

(1) "Child" has the meaning assigned by Section 22.011(c).

(2) "Elderly individual" and "disabled individual" have the meanings assigned by Section 22.04(c).

(c) An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b).

(d) The defense provided by Section 22.011(d) applies to this section.

(e) An offense under this section is a felony of the first degree.

(f) The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(1) the victim of the offense is younger than six years of age at the time the offense is committed; or

(2) the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A).

(Enacted by Acts 1983, 68th Leg., ch. 977 (H.B. 2008), § 3, effective September 1, 1983; am. Acts 1987, 70th Leg., ch. 573 (H.B. 161), § 1, effective September 1, 1987; am. Acts 1987, 70th Leg., 2nd C.S., ch. 16 (S.B. 35), § 1, effective September 1, 1987; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 7, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1286 (S.B. 185), § 2, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 417 (S.B. 1100), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 459 (H.B. 139), § 5, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 528 (H.B. 1246), § 2, effective September 1, 2003; am. Acts 2003, 78th

Leg., ch. 896 (S.B. 837), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), § 1.18, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 6.05, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 1 (S.B. 24), § 7.01 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 22.04. Injury to a Child, Elderly Individual, or Disabled Individual.

(a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, elderly individual, or disabled individual:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury; or

(3) bodily injury.

(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury; or

(3) bodily injury.

(b) An omission that causes a condition described by Subsection (a)(1), (2), or (3) or (a-1)(1), (2), or (3) is conduct constituting an offense under this section if:

(1) the actor has a legal or statutory duty to act; or

(2) the actor has assumed care, custody, or control of a child, elderly individual, or disabled individual.

(c) In this section:

(1) "Child" means a person 14 years of age or younger.

(2) "Elderly individual" means a person 65 years of age or older.

(3) "Disabled individual" means a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself.

(4) [Repealed by Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 11, effective September 1, 2011.]

(d) For purposes of an omission that causes a condition described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), or (3), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a felony of the second degree.

(f) An offense under Subsection (a)(3) or (a-1)(3) is a felony of the third degree when the conduct is committed intentionally or knowingly, except that an offense under Subsection (a)(3) is a felony of the second degree when the conduct is committed intentionally or knowingly and the victim is a disabled individual residing in a center, as defined by Section 555.001, Health and Safety Code, or in a facility licensed under Chapter 252, Health and Safety Code, and the actor is an employee of the center or facility whose employment involved providing direct care for the victim. When the conduct is engaged in recklessly, the offense is a state jail felony.

(g) An offense under Subsection (a) is a state jail felony when the person acts with criminal negligence. An offense under Subsection (a-1) is a state jail felony when the person, with criminal negligence and by omission, causes a condition described by Subsection (a-1)(1), (2), or (3).

(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.

(i) It is an affirmative defense to prosecution under Subsection (b)(2) that before the offense the actor:

(1) notified in person the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); and

(2) notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); or

(3) notified in writing the Department of Protective and Regulatory Services that he would no longer provide any of the care set forth in Subsection (d).

(j) Written notification under Subsection (i)(2) or (i)(3) is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or disabled individual, the type of care provided by the actor, and the date the care was discontinued.

(k) It is a defense to prosecution under this section that the act or omission consisted of:

(1) reasonable medical care occurring under the direction of or by a licensed physician; or

(2) emergency medical care administered in good faith and with reasonable care by a person not licensed in the healing arts.

(*l*) It is an affirmative defense to prosecution under this section:

(1) that the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing with a generally accepted record of efficacy;

(2) for a person charged with an act of omission causing to a child, elderly individual, or disabled individual a condition described by Subsection (a)(1), (2), or (3) that:

(A) there is no evidence that, on the date prior to the offense charged, the defendant was aware of an incident of injury to the child, elderly individual, or disabled individual and failed to report the incident; and

(B) the person:

(i) was a victim of family violence, as that term is defined by Section 71.004, Family Code, committed by a person who is also charged with an offense against the child, elderly individual, or disabled individual under this section or any other section of this title;

(ii) did not cause a condition described by Subsection (a)(1), (2), or (3); and

(iii) did not reasonably believe at the time of the omission that an effort to prevent the person also charged with an offense against the child, elderly individual, or disabled individual from committing the offense would have an effect; or

(3) that:

(A) the actor was not more than three years older than the victim at the time of the offense; and

(B) the victim was a child at the time of the offense.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1977, 65th Leg., ch. 819 (H.B. 1089), § 1, effective August 29, 1977; am. Acts 1979, 66th Leg., ch. 162 (S.B. 394), § 1, effective August 27, 1979; am. Acts 1981, 67th Leg., ch. 202 (S.B. 126), § 4, effective September 1, 1981; am. Acts 1981, 67th Leg., ch. 604 (H.B. 1459), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 357 (S.B. 1154), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 497 (S.B. 1436), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 8.139, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 15.02(b), effective September 1, 1999; am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), § 1.125(a), effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 46, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 38, effective June 11, 2009; am. Acts 2011, 82nd Leg., ch. 620 (S.B. 688), §§ 5, 11, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 48(a) provides: "The changes in law made by this Act to Section 261.109, Family Code, Section 48.052, Human Resources Code, and Section 22.04, Penal Code, apply only to an offense committed on or after the effective date of this Act [June 11, 2009]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 12(a) provides: "The changes in law made by this Act to Article 37.07, Code of Criminal Procedure, and Sections 22.04, 32.46, 35A.01, 35A.02, and 71.02, Penal Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 22.041. Abandoning or Endangering Child.

(a) In this section, "abandon" means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.

(b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, he intentionally abandons the child in any place under circumstances that expose the child to an unreasonable risk of harm.

(c) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child;

(2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code.

(d) Except as provided by Subsection (e), an offense under Subsection (b) is:

(1) a state jail felony if the actor abandoned the child with intent to return for the child; or

(2) a felony of the third degree if the actor abandoned the child without intent to return for the child.

(e) An offense under Subsection (b) is a felony of the second degree if the actor abandons the child under circumstances that a reasonable person would believe would place the child in imminent danger of death, bodily injury, or physical or mental impairment.

(f) An offense under Subsection (c) is a state jail felony.

(g) It is a defense to prosecution under Subsection (c) that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

(h) It is an exception to the application of this section that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

(Enacted by Acts 1985, 69th Leg., ch. 791 (S.B. 175), § 1, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 904 (S.B. 748), § 1, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 687 (S.B. 612), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 1087 (H.B. 3423), § 3, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 809 (H.B. 706), § 7, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 282 (H.B. 164), § 10, effective August 1, 2005; am. Acts 2007, 80th Leg., ch. 840 (H.B. 946), § 2, effective September 1, 2007.)

Sec. 22.05. Deadly Conduct.

(a) A person commits an offense if he recklessly engages in conduct that places another in imminent danger of serious bodily injury.

(b) A person commits an offense if he knowingly discharges a firearm at or in the direction of:

(1) one or more individuals; or

(2) a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

(c) Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

(d) For purposes of this section, "building," "habitation," and "vehicle" have the meanings assigned those terms by Section 30.01.

(e) An offense under Subsection (a) is a Class A misdemeanor. An offense under Subsection (b) is a felony of the third degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 22.07. Terroristic Threat.

(a) A person commits an offense if he threatens to commit any offense involving violence to any person or property with intent to:

(1) cause a reaction of any type to his threat by an official or volunteer agency organized to deal with emergencies;

(2) place any person in fear of imminent serious bodily injury;

(3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place;

(4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;

(5) place the public or a substantial group of the public in fear of serious bodily injury; or

(6) influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

(b) An offense under Subsection (a) (1) is a Class B misdemeanor.

(c) An offense under Subsection (a) (2) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the offense:

(1) is committed against a member of the person's family or household or otherwise constitutes family violence; or

(2) is committed against a public servant.

(d) An offense under Subsection (a) (3) is a Class A misdemeanor, unless the actor causes pecuniary loss of $1,500 or more to the owner of the building, room, place, or conveyance, in which event the offense is a state jail felony.

(e) An offense under Subsection (a) (4), (a) (5), or (a) (6) is a felony of the third degree.

(f) In this section:

(1) "Family" has the meaning assigned by Section 71.003, Family Code.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(3) "Household" has the meaning assigned by Section 71.005, Family Code.

(g) For purposes of Subsection (d), the amount of pecuniary loss is the amount of economic loss suffered by the owner of the building, room, place, or conveyance as a result of the prevention or interruption of the occupation or use of the building, room, place, or conveyance.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1979, 66th Leg., ch. 530 (S.B. 952), § 2, effective August 27, 1979; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 2003, 78th Leg., ch. 139 (S.B. 408), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 388 (H.B. 11), § 2, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 446 (H.B. 616), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 16.003, effective September 1, 2005.)

Sec. 22.08. Aiding Suicide.

(a) A person commits an offense if, with intent to promote or assist the commission of suicide by another, he aids or attempts to aid the other to commit or attempt to commit suicide.

(b) An offense under this section is a Class C misdemeanor unless the actor's conduct causes suicide or attempted suicide that results in serious bodily injury, in which event the offense is a state jail felony.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 22.09. Tampering with Consumer Product.

(a) In this section:

(1) "Consumer Product" means any product offered for sale to or for consumption by the public and includes "food" and "drugs" as those terms are defined in Section 431.002, Health and Safety Code.

(2) "Tamper" means to alter or add a foreign substance to a consumer product to make it probable that the consumer product will cause serious bodily injury.

(b) A person commits an offense if he knowingly or intentionally tampers with a consumer product knowing that the consumer product will be offered for sale to the public or as a gift to another.

(c) A person commits an offense if he knowingly or intentionally threatens to tamper with a consumer product with the intent to cause fear, to affect the sale of the consumer product, or to cause bodily injury to any person.

(d) An offense under Subsection (b) is a felony of the second degree unless a person suffers serious bodily injury, in which event it is a felony of the first degree. An offense under Subsection (c) is a felony of the third degree.

(Enacted by Acts 1983, 68th Leg., ch. 481 (S.B. 160), § 1, effective September 1, 1983; am. Acts 1989, 71st Leg., ch. 1008 (H.B. 972), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 14 (S.B. 404), § 284(32), effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 22.11. Harassment by Persons in Certain Correctional Facilities; Harassment of Public Servant.

(a) A person commits an offense if, with the intent to assault, harass, or alarm, the person:

(1) while imprisoned or confined in a correctional or detention facility, causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal; or

(2) causes another person the actor knows to be a public servant to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise

of the public servant's official power or performance of an official duty.

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

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section.

(d) In this section, "correctional or detention facility" means:

(1) a secure correctional facility; or

(2) a "secure correctional facility" or a "secure detention facility" as defined by Section 51.02, Family Code, operated by or under contract with a juvenile board or the Texas Youth Commission or any other facility operated by or under contract with that commission.

(e) For purposes of Subsection (a)(2), the actor is presumed to have known the person was a public servant if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant.

(Enacted by Acts 1999, 76th Leg., ch. 335 (H.B. 1713), § 1, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 878 (S.B. 729), § 1, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1006 (H.B. 274), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 543 (H.B. 1095), §§ 1, 2, effective September 1, 2005.)

TITLE 7
OFFENSES AGAINST PROPERTY

CHAPTER 28
ARSON, CRIMINAL MISCHIEF, AND OTHER PROPERTY DAMAGE OR DESTRUCTION

Section

Sec. 28.02. Arson.

(a) A person commits an offense if the person starts a fire, regardless of whether the fire continues after ignition, or causes an explosion with intent to destroy or damage:

(1) any vegetation, fence, or structure on open-space land; or

(2) any building, habitation, or vehicle:

(A) knowing that it is within the limits of an incorporated city or town;

(B) knowing that it is insured against damage or destruction;

(C) knowing that it is subject to a mortgage or other security interest;

(D) knowing that it is located on property belonging to another;

(E) knowing that it has located within it property belonging to another; or

(F) when the person is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

(a-1) A person commits an offense if the person recklessly starts a fire or causes an explosion while manufacturing or attempting to manufacture a controlled substance and the fire or explosion damages any building, habitation, or vehicle.

(a-2) A person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing:

(1) recklessly damages or destroys a building belonging to another; or

(2) recklessly causes another person to suffer bodily injury or death.

(b) It is an exception to the application of Subsection (a)(1) that the fire or explosion was a part of the controlled burning of open-space land.

(c) It is a defense to prosecution under Subsection (a)(2)(A) that prior to starting the fire or causing the explosion, the actor obtained a permit or other written authorization granted in accordance with a city ordinance, if any, regulating fires and explosions.

(d) An offense under Subsection (a) is a felony of the second degree, except that the offense is a felony of the first degree if it is shown on the trial of the offense that:

(1) bodily injury or death was suffered by any person by reason of the commission of the offense; or

(2) the property intended to be damaged or destroyed by the actor was a habitation or a place of assembly or worship.

(e) An offense under Subsection (a-1) is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that bodily injury or death was suffered by any person by reason of the commission of the offense.

(f) An offense under Subsection (a-2) is a state jail felony.

(g) If conduct that constitutes an offense under Subsection (a-1) or that constitutes an offense under Subsection (a-2) also constitutes an offense under another subsection of this section or another section of this code, the actor may be prosecuted under Subsection (a-1) or Subsection (a-2), under the other subsection of this section, or under the other section of this code.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1979, 66th Leg., ch. 588 (S.B. 254), § 2, effective September 1, 1979; am. Acts 1981, 67th Leg., ch. 425 (H.B. 927), § 1, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 31 (S.B. 12), § 2, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 1006 (S.B. 78), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 976 (H.B. 171), § 1, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 960 (H.B. 1634), § 1, effective September 1, 2005; am. Acts 2009, 81st Leg., ch. 1168 (H.B. 3224), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1168 (H.B. 3224), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 28.03. Criminal Mischief.

(a) A person commits an offense if, without the effective consent of the owner:

(1) he intentionally or knowingly damages or destroys the tangible property of the owner;

(2) he intentionally or knowingly tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person; or

(3) he intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than $50; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is $50 or more but less than $500;

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is $500 or more but less than $1,500; or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

(4) a state jail felony if the amount of pecuniary loss is:

(A) $1,500 or more but less than $20,000;

(B) less than $1,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

(C) less than $1,500, if the property was a fence used for the production or containment of:

(i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or

(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or

(D) less than $20,000 and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

(5) a felony of the third degree if the amount of the pecuniary loss is $20,000 or more but less than $100,000;

(6) a felony of the second degree if the amount of pecuniary loss is $100,000 or more but less than $200,000; or

(7) a felony of the first degree if the amount of pecuniary loss is $200,000 or more.

(c) For the purposes of this section, it shall be presumed that a person who is receiving the economic benefit of public communications, public water, gas, or power supply, has knowingly tampered with the tangible property of the owner if the communication or supply has been:

(1) diverted from passing through a metering device; or

(2) prevented from being correctly registered by a metering device; or

(3) activated by any device installed to obtain public communications, public water, gas, or power supply without a metering device.

(d) The terms "public communication, public transportation, public gas or power supply, or other public service" and "public water supply" shall mean, refer to, and include any such services subject to regulation by the Public Utility Commission of Texas, the Railroad Commission of Texas, or the

Texas Natural Resource Conservation Commission or any such services enfranchised by the State of Texas or any political subdivision thereof.

(e) When more than one item of tangible property, belonging to one or more owners, is damaged, destroyed, or tampered with in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the damage to, destruction of, or tampering with the property may be aggregated in determining the grade of the offense.

(f) An offense under this section is a state jail felony if the damage or destruction is inflicted on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is less than $20,000.

(g) In this section:

(1) "Explosive weapon" means any explosive or incendiary device that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes:

(A) an explosive or incendiary bomb, grenade, rocket, and mine;

(B) a device designed, made, or adapted for delivering or shooting an explosive weapon; and

(C) a device designed, made, or adapted to start a fire in a time-delayed manner.

(2) "Firearm" has the meaning assigned by Section 46.01.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Aluminum wiring" means insulated or noninsulated wire or cable that consists of at least 50 percent aluminum, including any tubing or conduit attached to the wire or cable.

(5) "Bronze wiring" means insulated or noninsulated wire or cable that consists of at least 50 percent bronze, including any tubing or conduit attached to the wire or cable.

(6) "Copper wiring" means insulated or noninsulated wire or cable that consists of at least 50 percent copper, including any tubing or conduit attached to the wire or cable.

(7) "Transportation communications equipment" means:

(A) an official traffic-control device, railroad sign or signal, or traffic-control signal, as those terms are defined by Section 541.304, Transportation Code; or

(B) a sign, signal, or device erected by a railroad, public body, or public officer to direct the movement of a railroad train, as defined by Section 541.202, Transportation Code.

(8) "Transportation communications device" means any item attached to transportation communications equipment, including aluminum wiring, bronze wiring, and copper wiring.

(h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is $1,500 or more but less than $20,000 and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

(i) Notwithstanding Subsection (b), an offense under this section is a felony of the first degree if the property is livestock and the damage is caused by introducing bovine spongiform encephalopathy, commonly known as mad cow disease, or a disease described by Section 161.041(a), Agriculture Code. In this subsection, "livestock" has the meaning assigned by Section 161.001, Agriculture Code.

(j) Notwithstanding Subsection (b), an offense under this section is a felony of the third degree if:

(1) the tangible property damaged, destroyed, or tampered with is transportation communications equipment or a transportation communications device; and

(2) the amount of the pecuniary loss to the tangible property is less than $100,000.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1981, 67th Leg., ch. 29 (S.B. 211), § 1, effective August 31, 1981; am. Acts 1983, 68th Leg., ch. 497 (S.B. 283), § 1, effective September 1, 1983; am. Acts 1985, 69th Leg., ch. 352 (H.B. 95), § 1, effective September 1, 1985; am. Acts 1989, 71st Leg., ch. 559 (H.B. 1416), § 1, effective June 14, 1989; am. Acts 1989, 71st Leg., ch. 1253 (H.B. 1777), § 1, effective September 1, 1989; am. Acts 1989, 71st Leg., 1st C.S., ch. 42 (H.B. 103), § 1, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 11.280, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1083 (H.B. 1370), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 686 (H.B. 690), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 747 (S.B. 1174), § 1, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 976 (H.B. 171), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1280 (H.B. 240), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 690 (H.B. 1767), §§ 1, 2, effective September 1, 2007; am. Acts 2009, 81st

Leg., ch. 638 (H.B. 1614), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 638 (H.B. 1614), § 2 provides: "The change in law made by this Act in amending Section 28.03(b), Penal Code, applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 28.04. Reckless Damage or Destruction.

(a) A person commits an offense if, without the effective consent of the owner, he recklessly damages or destroys property of the owner.

(b) An offense under this section is a Class C misdemeanor.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 28.08. Graffiti.

(a) A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner with:

(1) paint;

(2) an indelible marker; or

(3) an etching or engraving device.

(b) Except as provided by Subsection (d), an offense under this section is:

(1) a Class B misdemeanor if the amount of pecuniary loss is less than $500;

(2) a Class A misdemeanor if the amount of pecuniary loss is $500 or more but less than $1,500;

(3) a state jail felony if the amount of pecuniary loss is $1,500 or more but less than $20,000;

(4) a felony of the third degree if the amount of pecuniary loss is $20,000 or more but less than $100,000;

(5) a felony of the second degree if the amount of pecuniary loss is $100,000 or more but less than $200,000; or

(6) a felony of the first degree if the amount of pecuniary loss is $200,000 or more.

(c) When more than one item of tangible property, belonging to one or more owners, is marked in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the marking of the property may be aggregated in determining the grade of the offense.

(d) An offense under this section is a state jail felony if:

(1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; and

(2) the amount of the pecuniary loss to real property or to tangible personal property is less than $20,000.

(e) In this section:

(1) "Aerosol paint" means an aerosolized paint product.

(2) "Etching or engraving device" means a device that makes a delineation or impression on tangible property, regardless of the manufacturer's intended use for that device.

(3) "Indelible marker" means a device that makes a mark with a paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint or ink products.

(4) "Institution of higher education" has the meaning assigned by Section 481.134, Health and Safety Code.

(5) "School" means a private or public elementary or secondary school.

(Enacted by Acts 1997, 75th Leg., ch. 593 (S.B. 758), § 1, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 166 (H.B. 152), §§ 1, 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 695 (H.B. 751), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 16.001, effective September 1, 2001; am. Acts 2009 81st Leg., ch. 639 (H.B. 1633), § 4, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 639 (H.B. 1633), § 5 provides: "The change in law made by this Act applies only to an offense that is committed or conduct that occurs on or after the effective date of this Act [September 1, 2009]. An offense that is committed or conduct that occurs before the effective date of this Act is covered by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed or conduct occurred before the effective date of this Act if any element of the offense or conduct occurred before that date."

CHAPTER 29 ROBBERY

Section

Sec. 29.02. Robbery.

(a) A person commits an offense if, in the course of committing theft as defined in Chapter 31 and with

intent to obtain or maintain control of the property, he:

(1) intentionally, knowingly, or recklessly causes bodily injury to another; or

(2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

(b) An offense under this section is a felony of the second degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 29.03. Aggravated Robbery.

(a) A person commits an offense if he commits robbery as defined in Section 29.02, and he:

(1) causes serious bodily injury to another;

(2) uses or exhibits a deadly weapon; or

(3) causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:

(A) 65 years of age or older; or

(B) a disabled person.

(b) An offense under this section is a felony of the first degree.

(c) In this section, "disabled person" means an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1989, 71st Leg., ch. 357 (S.B. 1154), § 2, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

CHAPTER 30
BURGLARY AND CRIMINAL TRESPASS

Section

Sec. 30.06. Trespass by Holder of License to Carry Concealed Handgun.

(a) A license holder commits an offense if the license holder:

(1) carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

(2) received notice that:

(A) entry on the property by a license holder with a concealed handgun was forbidden; or

(B) remaining on the property with a concealed handgun was forbidden and failed to depart.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.

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

(e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

(Enacted by Acts 1997, 75th Leg., ch. 1261 (H.B. 2909), § 23, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 9.24, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 1178 (S.B. 501), § 2, effective September 1, 2003.)

TITLE 8
OFFENSES AGAINST PUBLIC ADMINISTRATION

CHAPTER 36
BRIBERY AND CORRUPT INFLUENCE

Section

Sec. 36.01. Definitions.

In this chapter:

(1) "Custody" means:

(A) detained or under arrest by a peace officer; or

(B) under restraint by a public servant pursuant to an order of a court.

(2) "Party official" means a person who holds any position or office in a political party, whether by election, appointment, or employment.

(3) "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

(4) "Vote" means to cast a ballot in an election regulated by law.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 11, effective September 1, 1975; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 1, effective September 1, 1983; am. Acts 1989, 71st Leg., ch. 67 (H.B. 594), § 2, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 4.01, effective January 1, 1992; am. Acts 1991, 72nd Leg., ch. 565 (S.B. 4), § 3, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 36.02. Bribery.

(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

(1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;

(2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

(3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or

(4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.

(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.

(c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

(1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or

(2) the public servant ceases to be a public servant.

(d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

(e) An offense under this section is a felony of the second degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 11, effective September 1, 1975; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 2, effective September 1, 1983; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 4.02, effective January 1, 1992; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 36.03. Coercion of Public Servant or Voter.

(a) A person commits an offense if by means of coercion he:

(1) influences or attempts to influence a public servant in a specific exercise of his official power or a specific performance of his official duty or influences or attempts to influence a public servant to violate the public servant's known legal duty; or

(2) influences or attempts to influence a voter not to vote or to vote in a particular manner.

(b) An offense under this section is a Class A misdemeanor unless the coercion is a threat to commit a felony, in which event it is a felony of the third degree.

(c) It is an exception to the application of Subsection (a)(1) of this section that the person who influences or attempts to influence the public servant is a member of the governing body of a governmental entity, and that the action that influences or attempts to influence the public servant is an official action taken by the member of the governing body. For the purposes of this subsection, the term "official action" includes deliberations by the governing body of a governmental entity.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1989, 71st Leg., ch. 67 (H.B. 594), §§ 1, 3, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 36.04. Improper Influence.

(a) A person commits an offense if he privately addresses a representation, entreaty, argument, or other communication to any public servant who exercises or will exercise official discretion in an adjudicatory proceeding with an intent to influence the outcome of the proceeding on the basis of considerations other than those authorized by law.

(b) For purposes of this section, "adjudicatory proceeding" means any proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

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

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 36.05. Tampering with Witness.

(a) A person commits an offense if, with intent to influence the witness, he offers, confers, or agrees to confer any benefit on a witness or prospective witness in an official proceeding, or he coerces a witness or a prospective witness in an official proceeding:

(1) to testify falsely;

(2) to withhold any testimony, information, document, or thing;

(3) to elude legal process summoning him to testify or supply evidence;

(4) to absent himself from an official proceeding to which he has been legally summoned; or

(5) to abstain from, discontinue, or delay the prosecution of another.

(b) A witness or prospective witness in an official proceeding commits an offense if he knowingly solicits, accepts, or agrees to accept any benefit on the representation or understanding that he will do any of the things specified in Subsection (a).

(c) It is a defense to prosecution under Subsection (a)(5) that the benefit received was:

(1) reasonable restitution for damages suffered by the complaining witness as a result of the offense; and

(2) a result of an agreement negotiated with the assistance or acquiescence of an attorney for the state who represented the state in the case.

(d) An offense under this section is a felony of the third degree, except that if the official proceeding is part of the prosecution of a criminal case, an offense under this section is the same category of offense as the most serious offense charged in that criminal case.

(e) Notwithstanding Subsection (d), if the most serious offense charged is a capital felony, an offense under this section is a felony of the first degree.

(e-1) Notwithstanding Subsection (d), if the underlying official proceeding involves family violence, as defined by Section 71.004, Family Code, an offense under this section is the greater of:

(1) a felony of the third degree; or

(2) the most serious offense charged in the criminal case.

(e-2) Notwithstanding Subsections (d) and (e-1), if the underlying official proceeding involves family violence, as defined by Section 71.004, Family Code, and it is shown at the trial of the offense that the defendant has previously been convicted of an offense involving family violence under the laws of this state or another state, an offense under this section is the greater of:

(1) a felony of the second degree; or

(2) the most serious offense charged in the criminal case.

(e-3) For purposes of Subsection (a), a person is considered to coerce a witness or prospective witness if the person commits an act of family violence as defined by Section 71.004, Family Code, that is

perpetrated, in part, with the intent to cause the witness's or prospective witness's unavailability or failure to comply and the offense is punishable under Subsection (e-1) or (e-2), as applicable.

(f) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 721 (H.B. 312), § 1, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 770 (H.B. 1856), § 1, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 165 (S.B. 1360), §§ 1, 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 770 (H.B. 1856), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 165 (S.B. 1360), § 4 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 36.06. Obstruction or Retaliation.

(a) A person commits an offense if he intentionally or knowingly harms or threatens to harm another by an unlawful act:

(1) in retaliation for or on account of the service or status of another as a:

(A) public servant, witness, prospective witness, or informant; or

(B) person who has reported or who the actor knows intends to report the occurrence of a crime; or

(2) to prevent or delay the service of another as a:

(A) public servant, witness, prospective witness, or informant; or

(B) person who has reported or who the actor knows intends to report the occurrence of a crime.

(b) In this section:

(1) "Honorably retired peace officer" means a peace officer who:

(A) did not retire in lieu of any disciplinary action;

(B) was eligible to retire from a law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the officer's employment with the agency; and

(C) is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the officer does not offer a pension or annuity to its employees.

(2) "Informant" means a person who has communicated information to the government in connection with any governmental function.

(3) "Public servant" includes an honorably retired peace officer.

(c) An offense under this section is a felony of the third degree unless the victim of the offense was harmed or threatened because of the victim's service or status as a juror, in which event the offense is a felony of the second degree.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 4, effective September 1, 1983; am. Acts 1989, 71st Leg., ch. 557 (H.B. 3201), § 1, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 239 (H.B. 806), § 1, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 835 (H.B. 1181), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 246 (H.B. 1458), § 1, effective September 1, 2003.)

Sec. 36.07. Acceptance of Honorarium.

(a) A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.

(b) This section does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.

(b-1) Transportation, lodging, and meals described by Subsection (b) are not political contributions as defined by Title 15, Election Code.

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

(Enacted by Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 4.03, effective January 1, 1992; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 2011, 82nd Leg., ch. 56 (S.B. 1269), § 1, effective September 1, 2011.)

Sec. 36.08. Gift to Public Servant by Person Subject to His Jurisdiction.

(a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.

(b) A public servant in an agency having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his agency.

(c) A public servant in an agency carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his agency.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an agency of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an agency performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the agency in a contested case, who is doing business with the agency, or who the public servant knows is interested in any matter before the public servant. The exception provided by Section 36.10(b) does not apply to a benefit under this subsection.

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

(i) A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 11, effective September 1, 1975; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 5, effective September 1, 1983; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 4.04, effective January 1, 1992; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 36.09. Offering Gift to Public Servant.

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

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

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994.)

Sec. 36.10. Non-Applicable.

(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

(3) a benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of $50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of

duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

(4) a political contribution as defined by Title 15, Election Code;

(5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305, Government Code;

(6) an item with a value of less than $50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;

(7) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;

(8) transportation, lodging, and meals described by Section 36.07(b); or

(9) complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered:

(A) to a public servant who is a first responder; and

(B) through a program or clinic that is:

(i) operated by a local bar association or the State Bar of Texas; and

(ii) approved by the head of the agency employing the public servant, if the public servant is employed by an agency.

(b) Section 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.

(d) Section 36.08 (Gift to Public Servant) does not apply to a gratuity accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code. Section 36.09 (Offering Gift to Public Servant) does not apply to a gratuity that is offered in accordance with Section 11.0262, Parks and Wildlife Code.

(e) In this section, "first responder" means:

(1) a peace officer whose duties include responding rapidly to an emergency;

(2) fire protection personnel, as that term is defined by Section 419.021, Government Code;

(3) a volunteer firefighter who performs firefighting duties on behalf of a political subdivision and who is not serving as a member of the Texas Legislature or holding a statewide elected office;

(4) an ambulance driver; or

(5) an individual certified as emergency medical services personnel by the Department of State Health Services.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 11, effective September 1, 1975; am. Acts 1981, 67th Leg., ch. 738 (H.B. 1466), § 1, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 6, effective September 1, 1983; am. Acts 1987, 70th Leg., ch. 472 (H.B. 612), § 60, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 304 (S.B. 1), § 4.05, effective January 1, 1992; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), § 5.95(38), effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 639 (H.B. 2685), § 2, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 56 (S.B. 1269), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 1149 (S.B. 148), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1149 (S.B. 148), § 2 provides: "The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act [September 1, 2013]. The prosecution of an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date."

CHAPTER 37
PERJURY AND OTHER FALSIFICATION

Section

Sec. 37.10. Tampering with Governmental Record.

(a) A person commits an offense if he:

(1) knowingly makes a false entry in, or false alteration of, a governmental record;

(2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;

(3) intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;

(4) possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;

(5) makes, presents, or uses a governmental record with knowledge of its falsity; or

(6) possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

(b) It is an exception to the application of Subsection (a)(3) that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

(c) (1) Except as provided by Subdivisions (2), (3), and (4) and by Subsection (d), an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

(2) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was:

(A) a public school record, report, or assessment instrument required under Chapter 39, Education Code, data reported for a school district or open-enrollment charter school to the Texas Education Agency through the Public Education Information Management System (PEIMS) described by Section 42.006, Education Code, under a law or rule requiring that reporting, or a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree;

(B) a written report of a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action; or

(C) a written report of the certification, inspection, or maintenance record of an instrument, apparatus, implement, machine, or other similar device used in the course of an examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action.

(3) An offense under this section is a Class C misdemeanor if it is shown on the trial of the offense that the governmental record is a governmental record that is required for enrollment of a student in a school district and was used by the actor to establish the residency of the student.

(4) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the governmental record is a written appraisal filed with an appraisal review board under Section 41.43(a-1), Tax Code, that was performed by a person who had a contingency interest in the outcome of the appraisal review board hearing.

(d) An offense under this section, if it is shown on the trial of the offense that the governmental record is described by Section 37.01(2)(D), is:

(1) a Class B misdemeanor if the offense is committed under Subsection (a)(2) or Subsection (a)(5) and the defendant is convicted of presenting or using the record;

(2) a felony of the third degree if the offense is committed under:

(A) Subsection (a)(1), (3), (4), or (6); or

(B) Subsection (a)(2) or (5) and the defendant is convicted of making the record; and

(3) a felony of the second degree, notwithstanding Subdivisions (1) and (2), if the actor's intent in committing the offense was to defraud or harm another.

(e) It is an affirmative defense to prosecution for possession under Subsection (a)(6) that the possession occurred in the actual discharge of official duties as a public servant.

(f) It is a defense to prosecution under Subsection (a)(1), (a)(2), or (a)(5) that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

(g) A person is presumed to intend to defraud or harm another if the person acts with respect to two or more of the same type of governmental records or blank governmental record forms and if each governmental record or blank governmental record form is a license, certificate, permit, seal, title, or similar document issued by government.

(h) If conduct that constitutes an offense under this section also constitutes an offense under Section 32.48 or 37.13, the actor may be prosecuted under any of those sections.

(i) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

(j) It is not a defense to prosecution under Subsection (a)(2) that the record, document, or thing made, presented, or used displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or another substantially similar statement intended to alert a person to the falsity of the record, document, or thing, unless the record, document, or thing displays the statement diagonally printed clearly and indelibly on both the front and back of the record, document, or thing in solid red capital letters at least one-fourth inch in height.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1989, 71st Leg., ch. 1248 (H.B. 1285), § 66, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 113 (S.B. 589), § 4, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 565 (S.B. 4), § 5, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 189 (H.B. 1185), § 6, effective May 21, 1997; am. Acts 1997, 75th Leg., ch. 823 (S.B. 89), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 659 (H.B. 319), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 718 (H.B. 926), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 771 (S.B. 1800), § 3, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), § 2.139, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 257 (H.B. 1743), § 16, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1364 (H.B. 126), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1085 (H.B. 3024), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 73 (H.B. 1813), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 31, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 510 (S.B. 124), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 73 (H.B. 1813), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 35 provides: "Section 37.10(j), Penal Code, and Sections 521.454(d), 521.455(c), and 521.456(e), Transportation Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 510 (S.B. 124), § 3 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 37.101. Fraudulent Filing of Financing Statement.

(a) A person commits an offense if the person knowingly presents for filing or causes to be presented for filing a financing statement that the person knows:

(1) is forged;

(2) contains a material false statement; or

(3) is groundless.

(b) An offense under Subsection (a)(1) is a felony of the third degree, unless it is shown on the trial of the offense that the person had previously been convicted under this section on two or more occasions, in which event the offense is a felony of the second degree. An offense under Subsection (a)(2) or (a)(3) is a Class A misdemeanor, unless the person commits the offense with the intent to defraud or harm another, in which event the offense is a state jail felony.

(Enacted by Acts 1997, 75th Leg., ch. 189 (H.B. 1185), § 10, effective May 21, 1997.)

CHAPTER 38
OBSTRUCTING GOVERNMENTAL OPERATION

Section

Sec. 38.17. Failure to Stop or Report Aggravated Sexual Assault of Child.

(a) A person, other than a person who has a relationship with a child described by Section 22.04(b), commits an offense if:

(1) the actor observes the commission or attempted commission of an offense prohibited by Section 21.02 or 22.021(a)(2)(B) under circumstances in which a reasonable person would believe that an offense of a sexual or assaultive nature was being committed or was about to be committed against the child;

(2) the actor fails to assist the child or immediately report the commission of the offense to a peace officer or law enforcement agency; and

(3) the actor could assist the child or immediately report the commission of the offense without placing the actor in danger of suffering serious bodily injury or death.

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

(Enacted by Acts 1999, 76th Leg., ch. 1344 (H.B. 628), § 1, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 593 (H.B. 8), § 3.50, effective September 1, 2007.)

Sec. 38.171. Failure to Report Felony.

(a) A person commits an offense if the person:

(1) observes the commission of a felony under circumstances in which a reasonable person would believe that an offense had been committed in

which serious bodily injury or death may have resulted; and

(2) fails to immediately report the commission of the offense to a peace officer or law enforcement agency under circumstances in which:

(A) a reasonable person would believe that the commission of the offense had not been reported; and

(B) the person could immediately report the commission of the offense without placing himself or herself in danger of suffering serious bodily injury or death.

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

(Enacted by Acts 2003, 78th Leg., ch. 1009 (H.B. 325), § 2, effective September 1, 2003.)

CHAPTER 39
ABUSE OF OFFICE

Section

Sec. 39.01. Definitions.

In this chapter:

(1) "Law relating to a public servant's office or employment" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly:

(A) imposes a duty on the public servant; or

(B) governs the conduct of the public servant.

(2) "Misuse" means to deal with property contrary to:

(A) an agreement under which the public servant holds the property;

(B) a contract of employment or oath of office of a public servant;

(C) a law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

(D) a limited purpose for which the property is delivered or received.

(Enacted by Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, September 1, 1994.)

Sec. 39.015. Concurrent Jurisdiction to Prosecute Offenses Under This Chapter.

With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this chapter.

(Enacted by Acts 2007, 80th Leg., ch. 378 (S.B. 563), § 2, effective June 15, 2007.)

Sec. 39.02. Abuse of Official Capacity.

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(1) a Class C misdemeanor if the value of the use of the thing misused is less than $20;

(2) a Class B misdemeanor if the value of the use of the thing misused is $20 or more but less than $500;

(3) a Class A misdemeanor if the value of the use of the thing misused is $500 or more but less than $1,500;

(4) a state jail felony if the value of the use of the thing misused is $1,500 or more but less than $20,000;

(5) a felony of the third degree if the value of the use of the thing misused is $20,000 or more but less than $100,000;

(6) a felony of the second degree if the value of the use of the thing misused is $100,000 or more but less than $200,000; or

(7) a felony of the first degree if the value of the use of the thing misused is $200,000 or more.

(d) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the government for purposes of this section due to the administrative difficulty and cost involved in recapturing the discount or award for a governmental entity.

(e) If separate transactions that violate Subsection (a)(2) are conducted pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the use of the things misused in the transactions may be aggregated in determining the classification of the offense.

(f) The value of the use of a thing of value misused under Subsection (a)(2) may not exceed:

(1) the fair market value of the thing at the time of the offense; or

(2) if the fair market value of the thing cannot be ascertained, the cost of replacing the thing within a reasonable time after the offense.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 7, effective September 1, 1983; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 39.01); am. Acts 2009, 81st Leg., ch. 82 (S.B. 828), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 82 (S.B. 828), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 39.03. Official Oppression.

(a) A public servant acting under color of his office or employment commits an offense if he:

(1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

(2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

(3) intentionally subjects another to sexual harassment.

(b) For purposes of this section, a public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

(c) In this section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

(d) An offense under this section is a Class A misdemeanor, except that an offense is a felony of the third degree if the public servant acted with the intent to impair the accuracy of data reported to the Texas Education Agency through the Public Education Information Management System (PEIMS) described by Section 42.006, Education Code, under a law requiring that reporting.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1989, 71st Leg., ch. 1217 (H.B. 370), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 16 (S.B. 232), § 19.01(34), effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 39.02); am. Acts 2013, 83rd Leg., ch. 510 (S.B. 124), § 2, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 783 (S.B. 124), § 3 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 39.06. Misuse of Official Information.

(a) A public servant commits an offense if, in reliance on information to which he has access by virtue of his office or employment and that has not been made public, he:

(1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;

(2) speculates or aids another to speculate on the basis of the information; or

(3) as a public servant, including as a principal of a school, coerces another into suppressing or failing to report that information to a law enforcement agency.

(b) A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, he discloses or uses information for a nongovernmental purpose that:

(1) he has access to by means of his office or employment; and

(2) has not been made public.

(c) A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he solicits or receives from a public servant information that:

(1) the public servant has access to by means of his office or employment; and

(2) has not been made public.

(d) In this section, "information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Chapter 552, Government Code.

(e) Except as provided by Subsection (f), an offense under this section is a felony of the third degree.

(f) An offense under Subsection (a)(3) is a Class C misdemeanor.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1983, 68th Leg., ch. 558 (S.B. 651), § 9, effective September 1, 1983; am. Acts 1987, 70th Leg., ch. 30 (H.B. 288),

§ 1, effective September 1, 1987; am. Acts 1987, 70th Leg., 2nd C.S., ch. 43 (H.B. 123), § 3, effective October 20, 1987; am. Acts 1989, 71st Leg., ch. 927 (S.B. 1070), § 1, effective August 28, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 39.03); am. Acts 1995, 74th Leg., ch. 76 (S.B. 959), §§ 5.95(90), 14.52, effective September 1, 1995.)

TITLE 9
OFFENSES AGAINST PUBLIC ORDER AND DECENCY

CHAPTER 42
DISORDERLY CONDUCT AND RELATED OFFENSES

Section

Sec. 42.01. Disorderly Conduct.

(a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

(8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(9) discharges a firearm on or across a public road;

(10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(11) for a lewd or unlawful purpose:

(A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;

(B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

(C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

(a-1) For purposes of Subsection (a), the term "public place" includes a public school campus or the school grounds on which a public school is located.

(b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section:

(1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.

(e) It is a defense to prosecution for an offense under Subsection (a)(7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student younger than 12 years of age, and the prohibited conduct occurred at a public school campus during regular school hours.

(g) Noise arising from space flight activities, as defined by Section 100A.001, Civil Practice and Remedies Code, if lawfully conducted, does not constitute "unreasonable noise" for purposes of this section.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1977, 65th Leg., ch. 89 (H.B. 293), §§ 1, 2, effective August 29, 1977; am. Acts 1983, 68th Leg., ch. 800 (H.B. 747),

§ 1, effective September 1, 1983; am. Acts 1991, 72nd Leg., ch. 145 (S.B. 215), § 2, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 14, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 54 (H.B. 1362), § 4, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 389 (H.B. 12), § 1, effective September 1, 2003; am. Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 6, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 953 (H.B. 1791), § 6, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 19, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 9, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 8 provides: "The change in law made by Sections 37.124, Education Code, 37.126, Education Code, and 42.01, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 691 (H.B. 359), § 9 provides: "This Act applies beginning with the 2011-2012 school year."

Acts 2013, 83rd Leg., ch. 953 (H.B. 1791), § 7 provides: "The changes in law made by this Act apply only to space flight activities that occur on or after the effective date of this Act [September 1, 2013]. Space flight activities that occur before the effective date of this Act are governed by the law in effect immediately before that date, and that law is continued in effect for that purpose."

Acts 2013, 83rd Leg., ch. 1407 (S.B. 393), § 20 provides: "Except as provided by Sections 21 and 22 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1409 (S.B. 1114), § 10(a) provides: "Except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense was committed before that date."

TITLE 10
OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

CHAPTER 46
WEAPONS

Section

Sec. 46.01. Definitions.

In this chapter:

(1) "Club" means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:

(A) blackjack;

(B) nightstick;

(C) mace;

(D) tomahawk.

(2) "Explosive weapon" means any explosive or incendiary bomb, grenade, rocket, or mine, that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon.

(3) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:

(A) an antique or curio firearm manufactured before 1899; or

(B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

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

(5) "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand.

(6) "Illegal knife" means a:

(A) knife with a blade over five and one-half inches;

(B) hand instrument designed to cut or stab another by being thrown;

(C) dagger, including but not limited to a dirk, stiletto, and poniard;

(D) bowie knife;

(E) sword; or

(F) spear.

(7) "Knife" means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument.

(8) "Knuckles" means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

(9) "Machine gun" means any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

(10) "Short-barrel firearm" means a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches.

(11) "Switchblade knife" means any knife that has a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressure applied to a button or other device located on the handle or opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal force. The term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

(12) "Armor-piercing ammunition" means handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers.

(13) "Hoax bomb" means a device that:

(A) reasonably appears to be an explosive or incendiary device; or

(B) by its design causes alarm or reaction of any type by an official of a public safety agency or a volunteer agency organized to deal with emergencies.

(14) "Chemical dispensing device" means a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being.

(15) "Racetrack" has the meaning assigned that term by the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(16) "Zip gun" means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

(17) "Tire deflation device" means a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires. The term does not include a traffic control device that:

(A) is designed to puncture one or more of a vehicle's tires when driven over in a specific direction; and

(B) has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 13, effective September 1, 1975; am. Acts 1983, 68th Leg., ch. 457 (S.B. 22), § 1, effective September 1, 1983; am. Acts 1983, 68th Leg., ch. 852 (H.B. 1208), § 1, effective September 1, 1983; am. Acts 1987, 70th Leg., ch. 167 (S.B. 892), § 5.01(a)(46), effective September 1, 1987; am. Acts 1989, 71st Leg., ch. 749 (H.B. 1293), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 229 (H.B. 816), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1999, 76th Leg., ch. 1445 (H.B. 2825), § 1, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 12A.001, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1199 (H.B. 4456), § 1, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 920 (S.B. 1416), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1199 (H.B. 4456), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

Sec. 46.02. Unlawful Carrying Weapons.

(a) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or

about his or her person a handgun, illegal knife, or club if the person is not:

(1) on the person's own premises or premises under the person's control; or

(2) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1) the handgun is in plain view; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

(B) prohibited by law from possessing a firearm; or

(C) a member of a criminal street gang, as defined by Section 71.01.

(a-2) For purposes of this section, "premises" includes real property and a recreational vehicle that is being used as living quarters, regardless of whether that use is temporary or permanent. In this subsection, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters.

(a-3) For purposes of this section, "watercraft" means any boat, motorboat, vessel, or personal watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(b) Except as provided by Subsection (c), an offense under this section is a Class A misdemeanor.

(c) An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 49 (H.B. 717), § 1, effective April 15, 1975; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 14, effective September 1, 1975; am. Acts 1975, 64th Leg., ch. 494 (H.B. 431), § 2, effective June 19, 1975; am. Acts 1977, 65th Leg., ch. 746 (S.B. 428), § 26, effective August 29, 1977; am. Acts 1981, 67th Leg., ch. 552 (H.B. 1321), § 1, effective August 31, 1981; am. Acts 1983, 68th Leg., ch. 931 (H.B. 1708), § 1, effective August 29, 1983; am. Acts 1987, 70th Leg., ch. 262 (S.B. 1161), § 21, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 873 (H.B. 888), § 25, effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 168 (S.B. 443), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 229 (S.B. 60), § 2, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 16, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 754 (H.B. 713), § 15, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 790 (S.B. 1542), § 16, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 998 (S.B. 538), § 3, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 10.02, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1221 (H.B. 311), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1261 (H.B. 2909), § 24, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 693 (H.B. 1815), § 1, effective September 1, 2007; am. Acts 2011, 82nd Leg., ch. 679 (H.B. 25), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 679 (H.B. 25), § 3 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 46.03. Places Weapons Prohibited.

(a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a):

(1) on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution;

(2) on the premises of a polling place on the day of an election or while early voting is in progress;

(3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;

(4) on the premises of a racetrack;

(5) in or into a secured area of an airport; or

(6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed

on the designated premises and the person received notice that:

(A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or

(B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.

(b) It is a defense to prosecution under Subsections (a)(1)—(4) that the actor possessed a firearm while in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution, or an officer of the court.

(c) In this section:

(1) "Premises" has the meaning assigned by Section 46.035.

(2) "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(d) It is a defense to prosecution under Subsection (a)(5) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as:

(1) a member of the armed forces or national guard;

(2) a guard employed by a penal institution; or

(3) a security officer commissioned by the Texas Private Security Board if:

(A) the actor is wearing a distinctive uniform; and

(B) the firearm or club is in plain view; or

(4) a security officer who holds a personal protection authorization under Chapter 1702, Occupations Code, provided that the officer is either:

(A) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view; or

(B) not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner.

(e) It is a defense to prosecution under Subsection (a)(5) that the actor checked all firearms as baggage in accordance with federal or state law or regulations before entering a secured area.

(f) It is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

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

(h) It is a defense to prosecution under Subsection (a)(4) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by the Texas Board of Private Investigators and Private Security Agencies, if:

(1) the actor is wearing a distinctive uniform; and

(2) the firearm or club is in plain view.

(i) It is an exception to the application of Subsection (a)(6) that the actor possessed a firearm or club:

(1) while in a vehicle being driven on a public road; or

(2) at the actor's residence or place of employment.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1983, 68th Leg., ch. 508 (S.B. 354), § 1, effective August 29, 1983; am. Acts 1989, 71st Leg., ch. 749 (H.B. 1293), § 2, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § 2.79, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 386 (H.B. 2263), § 71, effective August 26, 1991; am. Acts 1991, 72nd Leg., ch. 433 (H.B. 44), § 1, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § 50, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 46.04); am. Acts 1995, 74th Leg., ch. 229 (S.B. 60), § 3, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 42, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 17, effective September 1, 1995; am. Acts 1995, 74th Leg., ch. 790 (S.B. 1542), § 17, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), §§ 10.03, 31.01(70), effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1043 (S.B. 1001), § 1, effective September 1, 1997; am Acts 1997, 75th Leg., ch. 1221 (H.B. 311), §§ 2, 3, effective June 20, 1997; am. Acts. 1997, 75th Leg., ch. 1261 (H.B. 2909), § 25, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1060 (H.B. 1925), §§ 1, 2, effective September 1, 2001; am. Acts 2003, 78th. Leg., ch. 1178 (S.B. 501), § 3, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 4B.21, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 4B.24 provides: "To the extent of any conflict, this article prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes."

Sec. 46.035. Unlawful Carrying of Handgun by License Holder.

(a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Sub-

chapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person in a public place.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, at any meeting of a governmental entity.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed.

(e) A license holder who is licensed as a security officer under Chapter 1702, Occupations Code, and employed as a security officer commits an offense if, while in the course and scope of the security officer's employment, the security officer violates a provision of Subchapter H, Chapter 411, Government Code.

(f) In this section:

(1) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(2) "License holder" means a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(3) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(g) An offense under Subsection (a), (b), (c), (d), or (e) is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9.

(h-1) **[2 Versions: As added by Acts 2007, 80th Leg., ch. 1214]** It is a defense to prosecution under Subsections (b) and (c) that the actor, at the time of the commission of the offense, was:

(1) an active judicial officer, as defined by Section 411.201, Government Code; or

(2) a bailiff designated by the active judicial officer and engaged in escorting the officer.

(h-1) **[2 Versions: As added by Acts 2007, 80th Leg., ch. 1222]** It is a defense to prosecution under Subsections (b)(1), (2), and (4)—(6), and (c) that at the time of the commission of the offense, the actor was:

(1) a judge or justice of a federal court;

(2) an active judicial officer, as defined by Section 411.201, Government Code; or

(3) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.

(i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section 30.06.

(j) Subsections (a) and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

(k) It is a defense to prosecution under Subsection (b)(1) that the actor was not given effective notice under Section 411.204, Government Code.

(Enacted by Acts 1995, 74th Leg., ch. 229 (S.B. 60), § 4, effective September 1, 1995; am. Acts 1997,

75th Leg., ch. 165 (S.B. 898), § 10.04, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1261 (H.B. 2909), §§ 26, 27, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 14.833, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 976 (H.B. 1813), § 3, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1214 (H.B. 1889), § 2, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1222 (H.B. 2300), § 5, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 687 (H.B. 2664), § 1, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 72 (S.B. 299), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 687 (H.B. 2664), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 72 (S.B. 299), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 46.04. Unlawful Possession of Firearm.

(a) A person who has been convicted of a felony commits an offense if he possesses a firearm:

(1) after conviction and before the fifth anniversary of the person's release from confinement following conviction of the felony or the person's release from supervision under community supervision, parole, or mandatory supervision, whichever date is later; or

(2) after the period described by Subdivision (1), at any location other than the premises at which the person lives.

(b) A person who has been convicted of an offense under Section 22.01, punishable as a Class A misdemeanor and involving a member of the person's family or household, commits an offense if the person possesses a firearm before the fifth anniversary of the later of:

(1) the date of the person's release from confinement following conviction of the misdemeanor; or

(2) the date of the person's release from community supervision following conviction of the misdemeanor.

(c) A person, other than a peace officer, as defined by Section 1.07, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to an order issued under Section 6.504 or Chapter 85, Family Code, under Article 17.292 or Chapter 7A, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, commits an offense if the person possesses a firearm after receiving notice of the order and before expiration of the order.

(d) In this section, "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(e) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) or (c) is a Class A misdemeanor.

(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

(1) is designated by a law of this state as a felony;

(2) contains all the elements of an offense designated by a law of this state as a felony; or

(3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 46.05); am. Acts 2001, 77th Leg., ch. 23 (S.B. 199), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 836 (S.B. 433), § 4, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 11.24, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1146 (H.B. 2730), § 11.30 provides: "The change in law made by this Act in amending Section 46.04, Penal Code, applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 46.05. Prohibited Weapons.

(a) A person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

(1) an explosive weapon;
(2) a machine gun;
(3) a short-barrel firearm;
(4) a firearm silencer;
(5) knuckles;
(6) armor-piercing ammunition;
(7) a chemical dispensing device;
(8) a zip gun; or
(9) a tire deflation device.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a correctional facility.

(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) was incidental to dealing with a short-barrel firearm or tire deflation device solely as an antique or curio;

(2) was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b); or

(3) was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an organization, agency, or institution listed in Subsection (b).

(e) An offense under Subsection (a)(1), (2), (3), (4), (6), (7), or (8) is a felony of the third degree. An offense under Subsection (a)(9) is a state jail felony. An offense under Subsection (a)(5) is a Class A misdemeanor.

(f) It is a defense to prosecution under this section for the possession of a chemical dispensing device that the actor is a security officer and has received training on the use of the chemical dispensing device by a training program that is:

(1) provided by the Texas Commission on Law Enforcement; or

(2) approved for the purposes described by this subsection by the Texas Private Security Board of the Department of Public Safety.

(g) In Subsection (f), "security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.

(Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1975, 64th Leg., ch. 342 (S.B. 127), § 15, effective September 1, 1975; am. Acts 1983, 68th Leg., ch. 457 (S.B. 22), § 2, effective September 1, 1983; am. Acts 1983, 68th Leg., ch. 852 (H.B. 1208), § 2, effective September 1, 1983; am. Acts 1987, 70th Leg., ch. 167 (S.B. 892), § 5.01(a)(47), effective September 1, 1987; am. Acts 1991, 72nd Leg., ch. 229 (H.B. 816), § 2, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994 (renumbered from Sec. 46.06); am. Acts 2003, 78th Leg., ch. 1071 (H.B. 1661), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1035 (H.B. 1132), § 2.01, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1278 (H.B. 2303), § 7, effective September 1, 2005; am. Acts 2011, 82nd Leg., ch. 920 (S.B. 1416), § 2, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 93 (S.B. 686), § 2.60, effective May 18, 2013; am. Acts 2013, 83rd Leg., ch. 960 (H.B. 1862), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 960 (H.B. 1862), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 46.11. Penalty If Offense Committed Within Weapon-Free School Zone.

(a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment prescribed for the next highest category of offense if it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense in a place that the actor knew was:

(1) within 300 feet of the premises of a school; or

(2) on premises where:

(A) an official school function is taking place; or

(B) an event sponsored or sanctioned by the University Interscholastic League is taking place.

(b) This section does not apply to an offense under Section 46.03(a)(1).

(c) In this section:

(1) "Premises" has the meaning assigned by Section 481.134, Health and Safety Code.

(2) "School" means a private or public elementary or secondary school.

(Enacted by Acts 1995, 74th Leg., ch. 320 (S.B. 840), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1063 (S.B. 1539), § 10, effective September 1, 1997; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 20.002, effective September 1, 2011.)

Sec. 46.12. Maps As Evidence of Location or Area.

(a) In a prosecution of an offense for which punishment is increased under Section 46.11, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of weapon-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those areas if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those areas.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the area is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 46.11; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

(Enacted by Acts 1995, 74th Leg., ch. 320 (S.B. 840), § 2, effective September 1, 1995; am. Acts 2005, 79th Leg., ch. 728 (H.B. 2018), § 16.004, effective September 1, 2005.)

CHAPTER 48
CONDUCT AFFECTING PUBLIC HEALTH

Section

Sec. 48.01. Smoking Tobacco.

(a) A person commits an offense if he is in possession of a burning tobacco product or smokes tobacco in a facility of a public primary or secondary school or an elevator, enclosed theater or movie house, library, museum, hospital, transit system bus, or intrastate bus, as defined by Section 541.201, Transportation Code, plane, or train which is a public place.

(b) It is a defense to prosecution under this section that the conveyance or public place in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such conveyance or public place and that an offense is punishable by a fine not to exceed $500.

(c) All conveyances and public places set out in Subsection (a) of Section 48.01 shall be equipped with facilities for extinguishment of smoking materials and it shall be a defense to prosecution under this section if the conveyance or public place within which the offense takes place is not so equipped.

(d) It is an exception to the application of Subsection (a) if the person is in possession of the burning tobacco product or smokes tobacco exclusively within an area designated for smoking tobacco or as a participant in an authorized theatrical performance.

(e) An area designated for smoking tobacco on a transit system bus or intrastate plane or train must also include the area occupied by the operator of the transit system bus, plane, or train.

(f) An offense under this section is punishable as a Class C misdemeanor.

(Enacted by Acts 1975, 64th Leg., ch. 290 (S.B. 59), § 1, effective September 1, 1975; am. Acts 1991, 72nd Leg., ch. 108 (H.B. 407), § 2, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.242, effective September 1, 1997.)

TITLE 11
ORGANIZED CRIME

CHAPTER 71
ORGANIZED CRIME

Section

Sec. 71.02. Engaging in Organized Criminal Activity.

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous

sexual abuse of young child or children, solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32;

(9) any offense under Chapter 36;

(10) any offense under Chapter 34, 35, or 35A;

(11) any offense under Section 37.11(a);

(12) any offense under Chapter 20A;

(13) any offense under Section 37.10;

(14) any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15) any offense under Section 42.10;

(16) any offense under Section 46.06(a)(1) or 46.14;

(17) any offense under Section 20.05; or

(18) any offense classified as a felony under the Tax Code.

(b) Except as provided in Subsections (c) and (d), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that the offense is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for:

(1) life without parole, if the most serious offense is an aggravated sexual assault and if at the time of that offense the defendant is 18 years of age or older and:

(A) the victim of the offense is younger than six years of age;

(B) the victim of the offense is younger than 14 years of age and the actor commits the offense in a manner described by Section 22.021(a)(2)(A); or

(C) the victim of the offense is younger than 17 years of age and suffered serious bodily injury as a result of the offense; or

(2) life or for any term of not more than 99 years or less than 15 years if the most serious offense is an offense punishable as a felony of the first degree, other than an offense described by Subdivision (1).

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense he withdrew from the combination before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed, unless the defendant is convicted of conspiring to commit the offense, in which event the offense is one category lower than the most serious offense that the defendant conspired to commit.

(Enacted by Acts 1977, 65th Leg., ch. 346 (S.B. 151), § 1, effective June 10, 1977; am. Acts 1981, 67th Leg., ch. 587 (H.B. 21), §§ 1—3, effective September 1, 1981; am. Acts 1989, 71st Leg., ch. 782 (H.B. 5), § 2, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 555 (H.B. 549), § 1, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 761 (H.B. 354), § 3, effective September 1 1993; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1995, 74th Leg., ch. 318 (S.B. 15), § 24, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 189 (H.B. 1185), § 9, effective May 21, 1997; am. Acts 1999, 76th Leg., ch. 685 (H.B. 668), § 8, effective September 1, 1999; am. Acts 2003, 78th Leg., ch. 641 (H.B. 2096), § 3, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1162 (H.B. 3376), § 5, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 1163 (H.B. 126), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 153 (S.B. 2225), § 2, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1357 (S.B. 554), § 2, effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 68 (S.B. 934), § 8, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 20.003, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 223 (H.B. 260), § 3, effective September 1, 2011; am.

Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 10, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 1200 (S.B. 158), §§ 3, 4, effective September 1, 2011; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 16.005, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1252 (H.B. 8), § 21, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1325 (S.B. 549), § 4(b), effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 153 (S.B. 2225), § 5 provides: "The change in law made by this Act in amending Subsection (a), Section 71.02, Penal Code, applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 9 provides: "Section 15.031(e) and Section 71.02(a), Penal Code, as amended by this Act, and Section 71.028, Penal Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2009, 81st Leg., ch. 1357 (S.B. 554), § 5 provides: "The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2009] or to the forfeiture of property used in the commission of that offense. An offense committed before the effective date of this Act, or the forfeiture of property used in the commission of that offense, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 68 (S.B. 934), § 26 provides: "Except as provided by Section 27 of this Act, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 223 (H.B. 260), § 6 provides: "The changes in law made by this Act in amending Sections 20.05 and 71.02, Penal Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 620 (S.B. 688), § 12(a) provides: "The changes in law made by this Act to Article 37.07, Code of Criminal Procedure, and Sections 22.04, 32.46, 35A.01, 35A.02, and 71.02, Penal Code, apply only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2011, 82nd Leg., ch. 1200 (S.B. 158), § 7 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2011]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1252 (H.B. 8), § 23(b) provides: "The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Acts 2013, 83rd Leg., ch. 1325 (S.B. 549), § 6 provides: "The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 71.028. Gang-Free Zones.

(a) In this section:

(1) "Institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "Shopping mall" means an enclosed public walkway or hall area that connects retail, service, or professional establishments.

(b) This section applies to an offense listed in Section 71.02(a)(1), (4), or (7), other than burglary, theft, burglary of a motor vehicle, or unauthorized use of a motor vehicle.

(c) Except as provided by Subsection (d), the punishment prescribed for an offense described by Subsection (b) is increased to the punishment prescribed for the next highest category of offense if the actor is 17 years of age or older and it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense at a location that was:

(1) in, on, or within 1,000 feet of any:

(A) real property that is owned, rented, or leased by a school or school board;

(B) premises owned, rented, or leased by an institution of higher education;

(C) premises of a public or private youth center; or

(D) playground;

(2) in, on, or within 300 feet of any:

(A) shopping mall;

(B) movie theater;

(C) premises of a public swimming pool; or

(D) premises of a video arcade facility; or

(3) on a school bus.

(d) The punishment for an offense described by Subsection (b) may not be increased under this section if the offense is punishable under Section 71.02 as a felony of the first degree.

(Enacted by Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 3, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 9 provides: "Section 15.031(e) and Section 71.02(a), Penal Code, as amended by this Act, and Section 71.028, Penal Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

CHAPTER XIII
GUARDIANSHIP

Part 3. Appointment and Qualification of Guardians

Subpart A. Appointment

Part 3. APPOINTMENT AND QUALIFICATION OF GUARDIANS

SUBPART A. APPOINTMENT

Sec. 684. [Repealed January 1, 2014] Findings Required.

(a) Before appointing a guardian, the court must find by clear and convincing evidence that:

(1) the proposed ward is an incapacitated person;

(2) it is in the best interest of the proposed ward to have the court appoint a person as guardian of the proposed ward; and

(3) the rights of the proposed ward or the proposed ward's property will be protected by the appointment of a guardian.

(b) Before appointing a guardian, the court must find by a preponderance of the evidence that:

(1) the court has venue of the case;

(2) the person to be appointed guardian is eligible to act as guardian and is entitled to appointment, or, if no eligible person entitled to appointment applies, the person appointed is a proper person to act as guardian;

(3) if a guardian is appointed for a minor, the guardianship is not created for the primary purpose of enabling the minor to establish residency for enrollment in a school or school district for which the minor is not otherwise eligible for enrollment; and

(4) the proposed ward is totally without capacity as provided by this code to care for himself or herself and to manage the individual's property, or the proposed ward lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself or to manage the individual's property.

(c) The court may not grant an application to create a guardianship unless the applicant proves each element required by this code. A determination of incapacity of an adult proposed ward, other than a person who must have a guardian appointed to receive funds due the person from any governmental source, must be evidenced by recurring acts or occurrences within the preceding six-month period and not by isolated instances of negligence or bad judgment.

(d) A court may not appoint a guardian of the estate of a minor when a payment of claims is made under Section 887 of this code.

(e) A certificate of the executive head or a representative of the bureau, department, or agency of the government, to the effect that the appointment of a guardian is a condition precedent to the payment of any funds due the proposed ward from that governmental entity, is prima facie evidence of the necessity for the appointment of a guardian.

(Enacted by Acts 1993, 73rd Leg., ch. 957 (H.B. 2685), § 1, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 1039 (H.B. 2029), § 33, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1376 (H.B. 1317), § 3, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 379 (H.B. 3337), § 5, effective September 1, 1999.)

Tax Code

TITLE 1
PROPERTY TAX CODE

SUBTITLE C
TAXABLE PROPERTY AND EXEMPTIONS

CHAPTER 11
TAXABLE PROPERTY AND EXEMPTIONS

Subchapter B. Exemptions

Section

SUBCHAPTER B
EXEMPTIONS

Sec. 11.26. Limitation of School Tax on Homesteads of Elderly or Disabled.

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. A school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older or on the residence homestead of an individual who is disabled, as defined by Section 11.13, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the applicable exemption provided by Section 11.13(c) for an individual who is 65 years of age or older or is disabled. If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the same exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the same exemption, except as provided by Subsection (b). If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) for individuals 65 years of age or older was a tax year before the 1997 tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 1996 tax year less an amount equal to the amount determined by multiplying $10,000 times the tax rate of the school district for the 1997 tax year, plus any 1997 tax attributable to improvements made in 1996, other than improvements made to comply with governmental regulations or repairs.

(a-1) Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead was the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed by:

(1) multiplying the amount of tax the school district imposed on the homestead in the 2006 tax year by a fraction the numerator of which is the tax rate of the district for the 2007 tax year and the denominator of which is the tax rate of the district for the 2006 tax year; and

(2) adding any tax imposed in the 2007 tax year attributable to improvements made in the 2006 tax year as provided by Subsection (b) to the lesser of the amount computed under Subdivision (1) or the amount of tax the district imposed on the homestead in the 2006 tax year.

(a-2) Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead was a tax year before the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed by:

(1) multiplying the amount of tax the school district imposed on the homestead in the 2005 tax

year by a fraction the numerator of which is the tax rate of the district for the 2006 tax year and the denominator of which is the tax rate of the district for the 2005 tax year;

(2) adding any tax imposed in the 2006 tax year attributable to improvements made in the 2005 tax year as provided by Subsection (b) to the lesser of the amount computed under Subdivision (1) or the amount of tax the district imposed on the homestead in the 2005 tax year;

(3) multiplying the amount computed under Subdivision (2) by a fraction the numerator of which is the tax rate of the district for the 2007 tax year and the denominator of which is the tax rate of the district for the 2006 tax year; and

(4) adding to the lesser of the amount computed under Subdivision (2) or (3) any tax imposed in the 2007 tax year attributable to improvements made in the 2006 tax year, as provided by Subsection (b).

(a-3) Except as provided by Subsection (b), a limitation on tax increases provided by this section on a residence homestead computed under Subsection (a-1) or (a-2) continues to apply to the homestead in subsequent tax years until the limitation expires.

(b) If an individual makes improvements to the individual's residence homestead, other than improvements required to comply with governmental requirements or repairs, the school district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the assessed value of the homestead with the improvements and the assessed value it would have had without the improvements. A limitation imposed by this section then applies to the increased amount of tax until more improvements, if any, are made.

(c) The limitation on tax increases required by this section expires if on January 1:

(1) none of the owners of the structure who qualify for the exemption and who owned the structure when the limitation first took effect is using the structure as a residence homestead; or

(2) none of the owners of the structure qualifies for the exemption.

(d) If the appraisal roll provides for taxation of appraised value for a prior year because a residence homestead exemption for individuals 65 years of age or older or for disabled individuals was erroneously allowed, the tax assessor shall add, as back taxes due as provided by Section 26.09(d), the positive difference if any between the tax that should have been imposed for that year and the tax that was imposed because of the provisions of this section.

(e) For each school district in an appraisal district, the chief appraiser shall determine the portion of the appraised value of residence homesteads of individuals on which school district taxes are not imposed in a tax year because of the limitation on tax increases imposed by this section. That portion is calculated by determining the taxable value that, if multiplied by the tax rate adopted by the school district for the tax year, would produce an amount equal to the amount of tax that would have been imposed by the school district on those residence homesteads if the limitation on tax increases imposed by this section were not in effect, but that was not imposed because of that limitation. The chief appraiser shall determine that taxable value and certify it to the comptroller as soon as practicable for each tax year.

(f) The limitation on tax increases required by this section does not expire because the owner of an interest in the structure conveys the interest to a qualifying trust as defined by Section 11.13(j) if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the structure.

(g) Except as provided by Subsection (b), if an individual who receives a limitation on tax increases imposed by this section, including a surviving spouse who receives a limitation under Subsection (i), subsequently qualifies a different residence homestead for the same exemption under Section 11.13, a school district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the school district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that same exemption for the subsequently qualified homestead had the limitation on tax increases imposed by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of school district taxes imposed on the former homestead in the last year in which the individual received that same exemption for the former homestead and the denominator of which is the total amount of school district taxes that would have been imposed on the former homestead in the last year in which the individual received that same exemption for the former homestead had the limitation on tax increases imposed by this section not been in effect.

(h) An individual who receives a limitation on tax increases under this section, including a surviving spouse who receives a limitation under Subsection (i), and who subsequently qualifies a different residence homestead for an exemption under Section 11.13, or an agent of the individual, is entitled to

receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for that same limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the school district may impose on the subsequently qualified homestead.

(i) If an individual who qualifies for the exemption provided by Section 11.13(c) for an individual 65 years of age or older dies, the surviving spouse of the individual is entitled to the limitation applicable to the residence homestead of the individual if:

(1) the surviving spouse is 55 years of age or older when the individual dies; and

(2) the residence homestead of the individual:

(A) is the residence homestead of the surviving spouse on the date that the individual dies; and

(B) remains the residence homestead of the surviving spouse.

(j) If an individual who qualifies for an exemption provided by Section 11.13(c) for an individual 65 years of age or older dies in the first year in which the individual qualified for the exemption and the individual first qualified for the exemption after the beginning of that year, except as provided by Subsection (k), the amount to which the surviving spouse's school district taxes are limited under Subsection (i) is the amount of school district taxes imposed on the residence homestead in that year determined as if the individual qualifying for the exemption had lived for the entire year.

(k) If in the first tax year after the year in which an individual dies in the circumstances described by Subsection (j) the amount of school district taxes imposed on the residence homestead of the surviving spouse is less than the amount of school district taxes imposed in the preceding year as limited by Subsection (j), in a subsequent tax year the surviving spouse's school district taxes on that residence homestead are limited to the amount of taxes imposed by the district in that first tax year after the year in which the individual dies.

(*l*) For the purpose of calculating a limitation on ad valorem tax increases by a school district under this section, an individual who qualified a residence homestead before January 1, 2003, for an exemption under Section 11.13(c) for a disabled individual is considered to have first qualified the homestead for that exemption on January 1, 2003.

(m) For the purpose of qualifying under Subsection (g) for the limitation on ad valorem taxes on a subsequently qualified homestead imposed by a school district, the residence homestead of a disabled individual may be considered to be a subsequently qualified homestead only if the disabled individual qualified the former homestead for an exemption under Section 11.13(c) for a disabled individual for a tax year beginning on or after January 1, 2003.

(n) Notwithstanding Subsection (c), the limitation on tax increases required by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(o) Notwithstanding Subsections (a), (a-3), and (b), an improvement to property that would otherwise constitute an improvement under Subsection (b) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (b), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1980; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 38, effective January 1, 1982; am. Acts 1984, 68th Leg., 2nd C.S., ch. 28 (H.B. 72), part F, art. II, § 16, effective September 1, 1984; am. Acts 1991, 72nd Leg., 2nd C.S., ch. 6 (S.B. 45), § 10, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 854 (H.B. 2813), § 2, effective January 1, 1994; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 2.02, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1039 (S.B. 841), §§ 11—14, effective August 9, 1997; am. Acts 1997, 75th Leg., ch. 1059 (S.B. 1437), § 3, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 16.01, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1481 (H.B. 3549), § 2, effective January 1, 2000; am. Acts 2001, 77th Leg., ch. 193 (H.B. 506), § 1, effective January 1, 2002; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 18.003, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 411 (H.B. 217), §§ 1, 2, effective January 1, 2004; am. Acts 2007, 80th Leg., ch. 19 (H.B. 5), § 1, effective May 12, 2007; am. Acts 2009, 81st Leg., ch. 359 (H.B. 1257), § 1(b), effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1417 (H.B. 770), § 4, effective January 1, 2010.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 359 (H.B. 1257), § 1(e) provides: "This section applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act [June 19, 2009]."

Acts 2009, 81st Leg., ch. 1417 (H.B. 770), § 9 provides: "This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act [January 1, 2010]."

SUBTITLE D
APPRAISAL AND ASSESSMENT

CHAPTER 26
ASSESSMENT

Section

Sec. 26.01. Submission of Rolls to Taxing Units.

(a) By July 25, the chief appraiser shall prepare and certify to the assessor for each taxing unit participating in the district that part of the appraisal roll for the district that lists the property taxable by the unit. The part certified to the assessor is the appraisal roll for the unit. The chief appraiser shall consult with the assessor for each taxing unit and notify each unit in writing by April 1 of the form in which the roll will be provided to each unit.

(b) When a chief appraiser submits an appraisal roll for county taxes to a county assessor-collector, the chief appraiser also shall certify the appraisal district appraisal roll to the comptroller. However, the comptroller by rule may provide for submission of only a summary of the appraisal roll. The chief appraiser shall certify the district appraisal roll or the summary of that roll in the form and manner prescribed by the comptroller's rule.

(c) The chief appraiser shall prepare and certify to the assessor for each taxing unit a listing of those properties which are taxable by that unit but which are under protest and therefore not included on the appraisal roll approved by the appraisal review board and certified by the chief appraiser. This listing shall include the appraised market value, productivity value (if applicable), and taxable value as determined by the appraisal district and shall also include the market value, taxable value, and productivity value (if applicable) as claimed by the property owner filing the protest if available. If the property owner does not claim a value and the appraised value of the property in the current year is equal to or less than its value in the preceding year, the listing shall include a reasonable estimate of the market value, taxable value, and productivity value (if applicable) that would be assigned to the property if the taxpayer's claim is upheld. If the property owner does not claim a value and the appraised value of the property is higher than its appraised value in the preceding year, the listing shall include the appraised market value, productivity value (if applicable) and taxable value of the property in the preceding year, except that if there is

a reasonable likelihood that the appraisal review board will approve a lower appraised value for the property than its appraised value in the preceding year, the chief appraiser shall make a reasonable estimate of the taxable value that would be assigned to the property if the property owner's claim is upheld. The taxing unit shall use the lower value for calculations as prescribed in Sections 26.04 and 26.041 of this code.

(d) The chief appraiser shall prepare and certify to the assessor for each taxing unit a list of those properties of which the chief appraiser has knowledge that are reasonably likely to be taxable by that unit but that are not included on the appraisal roll certified to the assessor under Subsection (a) or included on the listing certified to the assessor under Subsection (c). The chief appraiser shall include on the list for each property the market value, appraised value, and kind and amount of any partial exemptions as determined by the appraisal district for the preceding year and a reasonable estimate of the market value, appraised value, and kind and amount of any partial exemptions for the current year. Until the property is added to the appraisal roll, the assessor for the taxing unit shall include each property on the list in the calculations prescribed by Sections 26.04 and 26.041, and for that purpose shall use the lower market value, appraised value, or taxable value, as appropriate, included on or computed using the information included on the list for the property.

(e) Except as provided by Subsection (f), not later than April 30, the chief appraiser shall prepare and certify to the assessor for each county, municipality, and school district participating in the appraisal district an estimate of the taxable value of property in that taxing unit. The chief appraiser shall assist each county, municipality, and school district in determining values of property in that taxing unit for the taxing unit's budgetary purposes.

(f) Subsection (e) does not apply to a county or municipality that notifies the chief appraiser that the county or municipality elects not to receive the estimate or assistance described by that subsection. (Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 114, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 786 (H.B. 647), § 1, effective August 29, 1983; am. Acts 1983, 68th Leg., ch. 851 (H.B. 1203), § 17, effective August 29, 1983; am. Acts 1983, 68th Leg., ch. 884 (H.B. 1446), § 3, effective January 1, 1984; am. Acts 1985, 69th Leg., ch. 312 (H.B. 2301), § 6, effective June 7, 1985; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 1, effective January 1, 1988; am. Acts 1991, 72nd Leg., 2nd C.S., ch. 6 (S.B. 45), § 44, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 1040 (S.B. 862), § 67, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 643 (H.B. 98), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 898 (H.B. 3526), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1087 (H.B. 2226), § 1, effective January 1, 2002; am. Acts 2007, 80th Leg., ch. 55 (S.B. 1405), § 1, effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 85, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 101 provides: "Section 44.004, Education Code, Sections 3.005 and 4.008, Election Code, and Sections 26.01 and 26.05, Tax Code, as amended by this Act, apply only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act [September 1, 2009]."

Sec. 26.011. Limitation on Application of Reappraised Values [Expired].

Expired pursuant to Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 115, effective January 1, 1987. (Enacted by Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 115, effective August 14, 1981.)

Sec. 26.012. Definitions.

In this chapter:

(1) "Additional sales and use tax" means an additional sales and use tax imposed by:

(A) a city under Section 321.101(b);

(B) a county under Chapter 323; or

(C) a hospital district, other than a hospital district created on or after September 1, 2001, that:

(i) imposes the sales and use tax under Subchapter I, Chapter 286, Health and Safety Code; or

(ii) imposes the sales and use tax under Subchapter L, Chapter 285, Health and Safety Code.

(2) "Collection rate" means the amount, expressed as a percentage, calculated by:

(A) adding together estimates of the following amounts:

(i) the total amount of taxes to be levied in the current year and collected before July 1 of the next year, including any penalties and interest on those taxes that will be collected during that period;

(ii) any additional taxes imposed under Chapter 23 collected between July 1 of the current year and June 30 of the following year; and

(iii) the total amount of delinquent taxes levied in any preceding year that will be collected between July 1 of the current year

and June 30 of the following year, including any penalties and interest on those taxes that will be collected during that period; and

(B) dividing the amount calculated under Paragraph (A) by the total amount of taxes that will be levied in the current year.

(3) "Current debt" means debt service for the current year.

(4) "Current debt rate" means a rate expressed in dollars per $100 of taxable value and calculated according to the following formula:

$$\text{CURRENT DEBT RATE} = \frac{(\text{CURRENT DEBT SERVICE} - \text{EXCESS COLLECTIONS}) + (\text{CURRENT TOTAL VALUE} \times \text{COLLECTION RATE})}{\text{CURRENT JUNIOR COLLEGE LEVY}} \over \text{CURRENT TOTAL VALUE}$$

(5) "Current junior college levy" means the amount of taxes the governing body proposes to dedicate in the current year to a junior college district under Section 45.105(e), Education Code.

(6) **[2 Versions: Effective Until January 1, 2014]** "Current total value" means the total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, less the taxable value of property exempted for the current tax year for the first time under Section 11.31, except that:

(A) the current total value for a school district excludes:

(i) the total value of homesteads that qualify for a tax limitation as provided by Section 11.26; and

(ii) new property value of property that is subject to an agreement entered into under Chapter 313; and

(B) the current total value for a county, municipality, or junior college district excludes the total value of homesteads that qualify for a tax limitation provided by Section 11.261.

(6) **[2 Versions: Effective January 1, 2014]** "Current total value" means the total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, less the taxable value of property exempted for the current tax year for the first time under Section 11.31 or 11.315, except that:

(A) the current total value for a school district excludes:

(i) the total value of homesteads that qualify for a tax limitation as provided by Section 11.26; and

(ii) new property value of property that is subject to an agreement entered into under Chapter 313; and

(B) the current total value for a county, municipality, or junior college district excludes the total value of homesteads that qualify for a tax limitation provided by Section 11.261.

(7) "Debt" means a bond, warrant, certificate of obligation, or other evidence of indebtedness owed by a taxing unit that is payable solely from property taxes in installments over a period of more than one year, not budgeted for payment from maintenance and operations funds, and secured by a pledge of property taxes, or a payment made under contract to secure indebtedness of a similar nature issued by another political subdivision on behalf of the taxing unit.

(8) "Debt service" means the total amount expended or to be expended by a taxing unit from property tax revenues to pay principal of and interest on debts or other payments required by contract to secure the debts and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates incurring in the next calendar year.

(9) "Effective maintenance and operations rate" means a rate expressed in dollars per $100 of taxable value and calculated according to the following formula:

$$\text{EFFECTIVE MAINTENANCE AND OPERATIONS RATE} = \frac{(\text{LAST YEAR'S LEVY}) - (\text{LAST YEAR'S DEBT LEVY}) - (\text{LAST YEAR'S JUNIOR COLLEGE LEVY})}{(\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})}$$

(10) "Excess collections" means the amount, if any, by which debt taxes collected in the preceding year exceeded the amount anticipated in the preceding year's calculation of the rollback rate, as certified by the collector under Section 26.04(b) of this code.

(11) "Last year's debt levy" means the total of:

(A) the amount of taxes that would be generated by multiplying the total taxable value of property on the appraisal roll for the preceding year, including all appraisal roll supplements and corrections, other than corrections made pursuant to Section 25.25(d) of this code, as of the date of calculation, by the debt rate adopted by the governing body in the preceding year under Section 26.05(a)(1) of this code; and

(B) the amount of debt taxes refunded by the taxing unit in the preceding year for tax years before that year.

(12) "Last year's junior college levy" means the amount of taxes dedicated by the governing body

in the preceding year for use of a junior college district under Section 45.105(e), Education Code.

(13) "Last year's levy" means the total of:

(A) the amount of taxes that would be generated by multiplying the total tax rate adopted by the governing body in the preceding year by the total taxable value of property on the appraisal roll for the preceding year, including:

(i) taxable value that was reduced in an appeal under Chapter 42; and

(ii) all appraisal roll supplements and corrections other than corrections made pursuant to Section 25.25(d), as of the date of the calculation, except that last year's taxable value for a school district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.26 and last year's taxable value for a county, municipality, or junior college district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.261; and

(B) the amount of taxes refunded by the taxing unit in the preceding year for tax years before that year.

(14) "Last year's total value" means the total taxable value of property listed on the appraisal roll for the preceding year, including all appraisal roll supplements and corrections, other than corrections made pursuant to Section 25.25(d), as of the date of the calculation, except that:

(A) last year's taxable value for a school district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.26; and

(B) last year's taxable value for a county, municipality, or junior college district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.261.

(15) "Lost property levy" means the amount of taxes levied in the preceding year on property value that was taxable in the preceding year but is not taxable in the current year because the property is exempt in the current year under a provision of this code other than Section 11.251 or 11.253, the property has qualified for special appraisal under Chapter 23 in the current year, or the property is located in territory that has ceased to be a part of the unit since the preceding year.

(16) "Maintenance and operations" means any lawful purpose other than debt service for which a taxing unit may spend property tax revenues.

(17) "New property value" means:

(A) the total taxable value of property added to the appraisal roll in the current year by annexation and improvements listed on the appraisal roll that were made after January 1 of the preceding tax year, including personal property located in new improvements that was brought into the unit after January 1 of the preceding tax year;

(B) property value that is included in the current total value for the tax year succeeding a tax year in which any portion of the value of the property was excluded from the total value because of the application of a tax abatement agreement to all or a portion of the property, less the value of the property that was included in the total value for the preceding tax year; and

(C) for purposes of an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, property value that is included in the current total value for the tax year succeeding a tax year in which the following occurs:

(i) the subdivision of land by plat;

(ii) the installation of water, sewer, or drainage lines; or

(iii) the paving of undeveloped land.

(Enacted by Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 2, effective January 1, 1988; am. Acts 1989, 71st Leg., ch. 2 (S.B. 221), §§ 14.27(d)(1), 14.28(1), effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 66 (H.B. 575), § 4, effective August 28, 1989; am. Acts 1989, 71st Leg., ch. 534 (H.B. 2959), § 3, effective January 1, 1990; am. Acts 1993, 73rd Leg., ch. 285 (H.B. 1920), § 3, effective August 30, 1993; am. Acts 1993, 73rd Leg., ch. 696 (H.B. 361), § 1, effective January 1, 1994;am. Acts 1995, 74th Leg., ch. 506 (H.B. 1537), §§ 1—3, effective August 28, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), §§ 29.01, 29.02, 6.77, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 53, effective September 1, 1997; am. Acts 2001, 77th Leg., ch. 1290 (H.B. 602), § 15, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 3, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 396 (H.B. 136), § 3, effective January 1, 2004; am. Acts 2007, 80th Leg., ch. 830 (H.B. 621), § 2, effective January 1, 2008; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 19.003, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1030 (H.B. 2712), § 3, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1030 (H.B. 2712), § 4 provides: "This Act applies only to ad valorem taxes imposed for a tax year that begins on or after the effective date of this Act [January 1, 2014]."

Sec. 26.02. Assessment Ratios Prohibited.

The assessment of property for taxation on the basis of a percentage of its appraised value is pro-

hibited. All property shall be assessed on the basis of 100 percent of its appraised value.
(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 851 (H.B. 1203), § 18, effective August 29, 1983.)

Sec. 26.03. Treatment of Captured Appraised Value and Tax Increment.

(a) In this section, "captured appraised value," "reinvestment zone," "tax increment," and "tax increment fund" have the meanings assigned by Chapter 311.

(b) This section does not apply to a school district.

(c) The portion of the captured appraised value of real property taxable by a taxing unit that corresponds to the portion of the tax increment of the unit from that property that the unit has agreed to pay into the tax increment fund for a reinvestment zone and that is not included in the calculation of "new property value" as defined by Section 26.012 is excluded from the value of property taxable by the unit in any tax rate calculation under this chapter.

(d) The portion of the tax increment of a taxing unit that the unit has agreed to pay into the tax increment fund for a reinvestment zone is excluded from the amount of taxes imposed or collected by the unit in any tax rate calculation under this chapter, except that the portion of the tax increment is not excluded if in the same tax rate calculation there is no portion of captured appraised value excluded from the value of property taxable by the unit under Subsection (c) for the same reinvestment zone.
(Enacted by Acts 2001, 77th Leg., ch. 503 (H.B. 1468), § 1, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 150 (S.B. 657), § 1, effective January 1, 2004; am. Acts 2003, 78th Leg., ch. 426 (H.B. 390), § 1, effective January 1, 2004.)

Sec. 26.04. Submission of Roll to Governing Body; Effective and Rollback Tax Rates.

(a) On receipt of the appraisal roll, the assessor for a taxing unit shall determine the total appraised value, the total assessed value, and the total taxable value of property taxable by the unit. He shall also determine, using information provided by the appraisal office, the appraised, assessed, and taxable value of new property.

(b) The assessor shall submit the appraisal roll for the unit showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property to the governing body of the unit by August 1 or as soon thereafter as practicable. By August 1 or as soon thereafter as practicable, the taxing unit's collector shall certify an estimate of the collection rate for the current year to the governing body. If the collector certified an anticipated collection rate in the preceding year and the actual collection rate in that year exceeded the anticipated rate, the collector shall also certify the amount of debt taxes collected in excess of the anticipated amount in the preceding year.

(c) An officer or employee designated by the governing body shall calculate the effective tax rate and the rollback tax rate for the unit, where:

(1) "Effective tax rate" means a rate expressed in dollars per $100 of taxable value calculated according to the following formula:

$$\text{EFFECTIVE TAX RATE} = \frac{\text{(LAST YEAR'S LEVY - LOST PROPERTY LEVY)}}{\text{(CURRENT TOTAL VALUE - NEW PROPERTY VALUE)}}$$

; and

(2) "Rollback tax rate" means a rate expressed in dollars per $100 of taxable value calculated according to the following formula:

$$\text{ROLLBACK TAX RATE} = \text{(EFFECTIVE MAINTENANCE AND OPERATIONS RATE x 1.08)} + \text{CURRENT DEBT RATE}$$

(d) The effective tax rate for a county is the sum of the effective tax rates calculated for each type of tax the county levies and the rollback tax rate for a county is the sum of the rollback tax rates calculated for each type of tax the county levies.

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the rates to the governing body. He shall deliver by mail to each property owner in the unit or publish in a newspaper in the form prescribed by the comptroller:

(1) the effective tax rate, the rollback tax rate, and an explanation of how they were calculated;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation;

(3) a schedule of the unit's debt obligations showing:

(A) the amount of principal and interest that will be paid to service the unit's debts in the next year from property tax revenue, including payments of lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds and other evidences of indebtedness issued on behalf of

the unit by another political subdivision and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates to incur in the next calendar year;

(B) the amount by which taxes imposed for debt are to be increased because of the unit's anticipated collection rate; and

(C) the total of the amounts listed in Paragraphs (A)—(B), less any amount collected in excess of the previous year's anticipated collections certified as provided in Subsection (b);

(4) the amount of additional sales and use tax revenue anticipated in calculations under Section 26.041;

(5) a statement that the adoption of a tax rate equal to the effective tax rate would result in an increase or decrease, as applicable, in the amount of taxes imposed by the unit as compared to last year's levy, and the amount of the increase or decrease;

(6) in the year that a taxing unit calculates an adjustment under Subsection (i) or (j), a schedule that includes the following elements:

(A) the name of the unit discontinuing the department, function, or activity;

(B) the amount of property tax revenue spent by the unit listed under Paragraph (A) to operate the discontinued department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made; and

(C) the name of the unit that operates a distinct department, function, or activity in all or a majority of the territory of a taxing unit that has discontinued operating the distinct department, function, or activity; and

(7) in the year following the year in which a taxing unit raised its rollback rate as required by Subsection (j), a schedule that includes the following elements:

(A) the amount of property tax revenue spent by the unit to operate the department, function, or activity for which the taxing unit raised the rollback rate as required by Subsection (j) for the 12 months preceding the month in which the calculations required by this chapter are made; and

(B) the amount published by the unit in the preceding tax year under Subdivision (6)(B).

(e-1) The notice requirements imposed by Subsections (e)(1)—(6) do not apply to a school district.

(f) If as a result of consolidation of taxing units a taxing unit includes territory that was in two or more taxing units in the preceding year, the amount of taxes imposed in each in the preceding year is combined for purposes of calculating the effective and rollback tax rates under this section.

(g) A person who owns taxable property is entitled to an injunction prohibiting the taxing unit in which the property is taxable from adopting a tax rate if the assessor or designated officer or employee of the unit, as applicable, has not complied with the computation or publication requirements of this section and the failure to comply was not in good faith.

(h) For purposes of this section, the anticipated collection rate of a taxing unit is the percentage relationship that the total amount of estimated tax collections for the current year bears to the total amount of taxes imposed for the current year. The total amount of estimated tax collections for the current year is the sum of the collector's estimate of:

(1) the total amount of property taxes imposed in the current year that will be collected before July 1 of the following year, including any penalties and interest on those taxes that will be collected during that period; and

(2) the total amount of delinquent property taxes imposed in previous years that will be collected on or after July 1 of the current year and before July 1 of the following year, including any penalties and interest on those taxes that will be collected during that period.

(i) This subsection applies to a taxing unit that has agreed by written contract to transfer a distinct department, function, or activity to another taxing unit and discontinues operating that distinct department, function, or activity if the operation of that department, function, or activity in all or a majority of the territory of the taxing unit is continued by another existing taxing unit or by a new taxing unit. The rollback tax rate of a taxing unit to which this subsection applies in the first tax year in which a budget is adopted that does not allocate revenue to the discontinued department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the unit is reduced by the amount of maintenance and operations tax revenue spent by the taxing unit to operate the department, function, or activity for the 12 months preceding the month in which the calculations required by this chapter are made and in which the unit operated the discontinued department, function, or activity. If the unit did not operate that department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the unit shall reduce last year's levy used for calculating the effective maintenance and operations rate of the unit by the amount of the revenue spent in the last

full fiscal year in which the unit operated the discontinued department, function, or activity.

(j) This subsection applies to a taxing unit that had agreed by written contract to accept the transfer of a distinct department, function, or activity from another taxing unit and operates a distinct department, function, or activity if the operation of a substantially similar department, function, or activity in all or a majority of the territory of the taxing unit has been discontinued by another taxing unit, including a dissolved taxing unit. The rollback tax rate of a taxing unit to which this subsection applies in the first tax year after the other taxing unit discontinued the substantially similar department, function, or activity in which a budget is adopted that allocates revenue to the department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the unit is increased by the amount of maintenance and operations tax revenue spent by the taxing unit that discontinued operating the substantially similar department, function, or activity to operate that department, function, or activity for the 12 months preceding the month in which the calculations required by this chapter are made and in which the unit operated the discontinued department, function, or activity. If the unit did not operate the discontinued department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the unit may increase last year's levy used to calculate the effective maintenance and operations rate by an amount not to exceed the amount of property tax revenue spent by the discontinuing unit to operate the discontinued department, function, or activity in the last full fiscal year in which the discontinuing unit operated the department, function, or activity.

(k) to (q) [Expired pursuant to Acts 1999, 76th Leg., ch. 1561 (S.B. 1804), § 1, effective January 1, 2001.]

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 116, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 400 (S.B. 1345), § 1, effective June 17, 1983; am. Acts 1983, 68th Leg., ch. 987 (H.B. 2076), § 3, effective June 19, 1983; am. Acts 1983, 68th Leg., ch. 1001 (H.B. 2134), § 1, effective January 1, 1984; am. Acts 1985, 69th Leg., ch. 657 (S.B. 1125), §§ 1, 2, effective June 14, 1985; am. Acts 1985, 69th Leg., 1st C.S., ch. 1 (S.B. 1), § 2(b), effective September 1, 1985; am. Acts 1986, 69th Leg., 3rd C.S., ch. 10 (H.B. 79), art. 1, § 36, effective January 1, 1987; am. Acts 1987, 70th Leg., ch. 699 (S.B. 1420), § 1, 3, effective June 19, 1987; am. Acts 1987, 70th Leg., ch. 849 (H.B. 1650), § 2, effective August 31, 1987; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 3, effective January 1, 1988; am. Acts 1987, 70th Leg., ch. 988 (S.B. 1420), § 1, 3, effective June 18, 1987; am. Acts 1991, 72nd Leg., 2nd C.S., ch. 6 (S.B. 45), § 45, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 81 (H.B. 155), § 2, effective May 4, 1993; am. Acts 1993, 73rd Leg., ch. 611 (S.B. 668), §§ 1, 2, effective August 30, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.03, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1070 (S.B. 1865), § 54, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 398 (H.B. 2075), § 2, effective August 30, 1999; am. Acts 1999, 76th Leg., ch. 1358 (H.B. 954), § 1, effective January 1, 2000; am. Acts 1999, 76th Leg., ch. 1561 (S.B. 1804), § 1, effective August 30, 1999.)

Sec. 26.041. Tax Rate of Unit Imposing Additional Sales and Use Tax.

(a) In the first year in which an additional sales and use tax is required to be collected, the effective tax rate and rollback tax rate for the unit are calculated according to the following formulas:

$$\text{EFFECTIVE TAX RATE} = \frac{\text{(LAST YEAR'S LEVY - LOST PROPERTY LEVY)}}{\text{(CURRENT TOTAL VALUE - NEW PROPERTY VALUE)} - \text{SALES TAX GAIN RATE}}$$

and

$$\text{ROLLBACK RATE} = (\text{EFFECTIVE MAINTENANCE AND OPERATIONS RATE} \times 1.08) + \text{CURRENT DEBT RATE} - \text{SALES TAX GAIN RATE}$$

where "sales tax gain rate" means a number expressed in dollars per $100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the following year as calculated under Subsection (d) of this section by the current total value.

(b) Except as provided by Subsections (a) and (c) of this section, in a year in which a taxing unit imposes an additional sales and use tax the rollback tax rate for the unit is calculated according to the following formula, regardless of whether the unit levied a property tax in the preceding year:

$$\text{ROLLBACK RATE} = \frac{\text{(LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times 1.08)}{\text{(TOTAL CURRENT VALUE - NEW PROPERTY VALUE)}} + \text{(CURRENT DEBT RATE - SALES TAX REVENUE RATE)}$$

where "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional

sales and use tax revenues in the preceding year, and "sales tax revenue rate" means a number expressed in dollars per $100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the current year as calculated under Subsection (d) of this section by the current total value.

(c) In a year in which a taxing unit that has been imposing an additional sales and use tax ceases to impose an additional sales and use tax the effective tax rate and rollback tax rate for the unit are calculated according to the following formulas:

$$\text{EFFECTIVE TAX RATE} = \frac{\text{(LAST YEAR'S LEVY - LOST PROPERTY LEVY)}}{\text{(CURRENT TOTAL VALUE - NEW PROPERTY VALUE)}} + \text{SALES TAX LOSS RATE}$$

and

$$\text{ROLLBACK TAX RATE} = \frac{\text{(LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times 1.08)}{\text{(TOTAL CURRENT VALUE - NEW PROPERTY VALUE)}} + \text{CURRENT DEBT RATE}$$

where "sales tax loss rate" means a number expressed in dollars per $100 of taxable value, calculated by dividing the amount of sales and use tax revenue generated in the last four quarters for which the information is available by the current total value and "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year.

(d) In order to determine the amount of additional sales and use tax revenue for purposes of this section, the designated officer or employee shall use the sales and use tax revenue for the last preceding four quarters for which the information is available as the basis for projecting the additional sales and use tax revenue for the current tax year. If the rate of the additional sales and use tax is increased or reduced, the projection to be used for the first tax year after the effective date of the sales and use tax change shall be adjusted to exclude any revenue gained or lost because of the sales and use tax rate change. If the unit did not impose an additional sales and use tax for the last preceding four quarters, the designated officer or employee shall request the comptroller of public accounts to provide to the officer or employee a report showing the estimated amount of taxable sales and uses within the unit for the previous four quarters as compiled by the comptroller, and the comptroller shall comply with the request. The officer or employee shall prepare the estimate of the additional sales and use tax revenue for the first year of the imposition of the tax by multiplying the amount reported by the comptroller by the appropriate additional sales and use tax rate and by multiplying that product by .95.

(e) If a city that imposes an additional sales and use tax receives payments under the terms of a contract executed before January 1, 1986, in which the city agrees not to annex certain property or a certain area and the owners or lessees of the property or of property in the area agree to pay at least annually to the city an amount determined by reference to all or a percentage of the property tax rate of the city and all or a part of the value of the property subject to the agreement or included in the area subject to the agreement, the governing body, by order adopted by a majority vote of the governing body, may direct the designated officer or employee to add to the effective and rollback tax rates the amount that, when applied to the total taxable value submitted to the governing body, would produce an amount of taxes equal to the difference between the total amount of payments for the tax year under contracts described by this subsection under the rollback tax rate calculated under this section and the total amount of payments for the tax year that would have been obligated to the city if the city had not adopted an additional sales and use tax.

(f) An estimate made by the comptroller under Subsection (d) of this section need not be adjusted to take into account any projection of additional revenue attributable to increases in the total value of items taxable under the state sales and use tax because of amendments of Chapter 151, Tax Code.

(g) If the rate of the additional sales and use tax is increased, the designated officer or employee shall make two projections, in the manner provided by Subsection (d) of this section, of the revenue generated by the additional sales and use tax in the following year. The first projection must take into account the increase and the second projection must not take into account the increase. The officer or employee shall then subtract the amount of the result of the second projection from the amount of the result of the first projection to determine the revenue generated as a result of the increase in the additional sales and use tax. In the first year in which an additional sales and use tax is increased, the effective tax rate for the unit is the effective tax rate before the increase minus a number the numerator of which is the revenue generated as a result of the increase in the additional sales and use tax, as determined under this subsection, and the denominator of which is the current total value minus the new property value.

(h) If the rate of the additional sales and use tax is decreased, the designated officer or employee shall

make two projections, in the manner provided by Subsection (d) of this section, of the revenue generated by the additional sales and use tax in the following year. The first projection must take into account the decrease and the second projection must not take into account the decrease. The officer or employee shall then subtract the amount of the result of the first projection from the amount of the result of the second projection to determine the revenue lost as a result of the decrease in the additional sales and use tax. In the first year in which an additional sales and use tax is decreased, the effective tax rate for the unit is the effective tax rate before the decrease plus a number the numerator of which is the revenue lost as a result of the decrease in the additional sales and use tax, as determined under this subsection, and the denominator of which is the current total value minus the new property value.

(i) Any amount derived from the sales and use tax that is or will be distributed by a county to the recipient of an economic development grant made under Chapter 381, Local Government Code, is not considered to be sales and use tax revenue for purposes of this section.

(j) Any amount derived from the sales and use tax that is retained by the comptroller under Section 4 or 5, Chapter 1507, Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes), is not considered to be sales and use tax revenue for purposes of this section.

(Enacted by Acts 1986, 69th Leg., 3rd C.S., ch. 10 (H.B. 79), art. 1, § 17, effective January 1, 1987; am. Acts 1987, 70th Leg., ch. 11 (S.B. 299), § 11, effective April 2, 1987; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 4, effective January 1, 1988; am. Acts 1989, 71st Leg., ch. 256 (H.B. 2624), § 3, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 184 (H.B. 916), § 8, effective May 24, 1991; am. Acts 1995, 74th Leg., ch. 1012 (S.B. 1136), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.04, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 814 (S.B. 275), § 5.08, effective September 1, 2003.)

Sec. 26.042. Effective Tax Rate in County Imposing Sales and Use Tax [Repealed].

Repealed by Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 5, effective January 1, 1988 and Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.09, effective September 1, 1997.

(Enacted by Acts 1986, 69th Leg., 3rd C.S., ch. 10 (H.B. 79), Art. 1, § 33, effective January 1, 1987; am. Acts 1987, 70th Leg., ch. 11 (S.B. 299), § 12, effective April 2, 1987.)

Sec. 26.043. Effective Tax Rate in City Imposing Mass Transit Sales and Use Tax.

(a) In the tax year in which a city has set an election on the question of whether to impose a local sales and use tax under Subchapter H, Chapter 453, Transportation Code, the officer or employee designated to make the calculations provided by Section 26.04 may not make those calculations until the outcome of the election is determined. If the election is determined in favor of the imposition of the tax, the representative shall subtract from the city's rollback and effective tax rates the amount that, if applied to the city's current total value, would impose an amount equal to the amount of property taxes budgeted in the current tax year to pay for expenses related to mass transit services.

(b) In a tax year to which this section applies, a reference in this chapter to the city's effective or rollback tax rate refers to that rate as adjusted under this section.

(c) For the purposes of this section, "mass transit services" does not include the construction, reconstruction, or general maintenance of municipal streets.

(Enacted by Acts 1986, 69th Leg., 3rd C.S., ch. 10 (H.B. 79), art. 1, § 35, effective January 1, 1987; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 6, effective January 1, 1988; am. Acts 1991, 72nd Leg., ch. 736 (S.B. 788), § 1, effective June 15, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.05, effective September 1, 1997.)

Sec. 26.044. Effective Tax Rate to Pay for State Criminal Justice Mandate.

(a) The first time that a county adopts a tax rate after September 1, 1991, in which the state criminal justice mandate applies to the county, the effective maintenance and operation rate for the county is increased by the rate calculated according to the following formula:

$$\frac{\text{(State Criminal Justice Mandate)}}{\text{(Current Total Value - New Property Value)}}$$

(b) In the second and subsequent years that a county adopts a tax rate, if the amount spent by the county for the state criminal justice mandate increased over the previous year, the effective maintenance and operation rate for the county is increased by the rate calculated according to the following formula:

$$\frac{\text{(This Year's State Criminal Justice Mandate - Previous Year's State Criminal Justice Mandate)}}{\text{(Current Total Value - New Property Value)}}$$

(c) The county shall include a notice of the increase in the effective maintenance and operation rate provided by this section, including a description and amount of the state criminal justice mandate, in the information published under Section 26.04(e) and Section 26.06(b) of this code.

(d) In this section, "state criminal justice mandate" means the amount spent by the county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced to the Texas Department of Criminal Justice as certified by the county auditor based on information provided by the county sheriff, minus the amount received from state revenue for reimbursement of such costs.
(Enacted by Acts 1991, 72nd Leg., 2nd C.S., ch. 10 (H.B. 93), § 11.10, effective August 29, 1991; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 25.153, effective September 1, 2009.)

Sec. 26.0441. Tax Rate Adjustment for Indigent Health Care.

(a) In the first tax year in which a taxing unit adopts a tax rate after January 1, 2000, and in which the enhanced minimum eligibility standards for indigent health care established under Section 61.006, Health and Safety Code, apply to the taxing unit, the effective maintenance and operations rate for the taxing unit is increased by the rate computed according to the following formula:

$$\text{Amount of Increase} = \frac{\text{Enhanced Indigent Health Care Expenditures}}{\text{(Current Total Value - New Property Value)}}$$

(b) In each subsequent tax year, if the taxing unit's enhanced indigent health care expenses exceed the amount of those expenses for the preceding year, the effective maintenance and operations rate for the taxing unit is increased by the rate computed according to the following formula:

$$\text{Amount of Increase} = \frac{\text{(Current Tax Year's Enhanced Indigent Health Care Expenditures - Preceding Tax Year's Indigent Health Care Expenditures)}}{\text{(Current Total Value - New Property Value)}}$$

(c) The taxing unit shall include a notice of the increase in its effective maintenance and operations rate provided by this section, including a brief description and the amount of the enhanced indigent health care expenditures, in the information published under Section 26.04(e) and, if applicable, Section 26.06(b).

(d) In this section, "enhanced indigent health care expenditures" for a tax year means the amount spent by the taxing unit for the maintenance and operation costs of providing indigent health care at the increased minimum eligibility standards established under Section 61.006, Health and Safety Code, effective on or after January 1, 2000, in the period beginning on July 1 of the year preceding the tax year for which the tax is adopted and ending on June 30 of the tax year for which the tax is adopted, less the amount of state assistance received by the taxing unit in accordance with Chapter 61, Health and Safety Code, that is attributable to those costs.

(e) [Expired pursuant to Acts 1999, 76th Leg., ch. 1377 (H.B. 1398), § 1.27, effective January 1, 2002.]
(Enacted by Acts 1999, 76th Leg., ch. 1377 (H.B. 1398), § 1.27, effective September 1, 1999.)

Sec. 26.045. Rollback Relief for Pollution Control Requirements.

(a) The rollback tax rate for a political subdivision of this state is increased by the rate that, if applied to the total current value, would impose an amount of taxes equal to the amount the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16) to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality.

(b) In this section, "facility, device, or method for control of air, water, or land pollution" means any land, structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States or this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(c) To receive an adjustment to the rollback tax rate under this section, a political subdivision shall present information to the executive director of the Texas Commission on Environmental Quality in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method; and

(3) the purpose of the installation of the facility, device, or method, and the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas Commission on Environmental Quality shall determine whether the facility, device, or

method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.

(e) The Texas Commission on Environmental Quality may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

(1) coal cleaning or refining facilities;

(2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;

(3) ultra-supercritical pulverized coal boilers;

(4) flue gas recirculation components;

(5) syngas purification systems and gas-cleanup units;

(6) enhanced heat recovery systems;

(7) exhaust heat recovery boilers;

(8) heat recovery steam generators;

(9) superheaters and evaporators;

(10) enhanced steam turbine systems;

(11) methanation;

(12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;

(13) biomass cofiring storage, distribution, and firing systems;

(14) coal cleaning or drying processes such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;

(15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology;

(16) if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;

(17) fuel cells generating electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste; and

(18) any other equipment designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

(g) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (f) at least once every three years. An item may be removed from the list if the commission finds compelling evidence to support the conclusion that the item does not render pollution control benefits.

(h) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in a permit application or in a request for any exemption from a permit that would otherwise be required is a facility, device, or method included on the list adopted under Subsection (f), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the permit application or in the request for an exemption from a permit that would otherwise be required is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the action that is required by Subsection (d) in the event such a determination is made.

(i) A political subdivision of the state seeking an adjustment in its rollback tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the rollback tax rate for the political subdivision as provided for by Subsection (a).

(Enacted by Acts 1993, 73rd Leg., ch. 285 (H.B. 1920), § 4, effective August 30, 1993; am. Acts 2007, 80th Leg., ch. 1277 (H.B. 3732), § 5, effective September 1, 2007.)

Sec. 26.05. Tax Rate.

(a) The governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the

taxing unit, shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate calculated under Section 44.004(c)(5)(A)(ii)(b), Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

(b) A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The vote on the ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate." If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must:

(1) include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document:

(A) the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."; and

(B) if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount)."; and

(2) include on the home page of any Internet website operated by the unit:

(A) the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and

(B) if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount)."

(c) If the governing body of a taxing unit does not adopt a tax rate before the date required by Subsection (a), the tax rate for the taxing unit for that tax year is the lower of the effective tax rate calculated for that tax year or the tax rate adopted by the taxing unit for the preceding tax year. A tax rate established by this subsection is treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate by this subsection, the governing body of the taxing unit must ratify the applicable tax rate in the manner required by Subsection (b).

(d) The governing body of a taxing unit other than a school district may not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate calculated as provided by this chapter until the governing body has held two public hearings on the proposed tax rate and has otherwise complied with Section 26.06 and Section 26.065. The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the lower of the rollback tax rate or the effective tax rate and may not adopt a higher rate unless it first complies with Section 26.06.

(e) A person who owns taxable property is entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the taxing unit has not complied with the requirements of this section and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed prior to the date a taxing unit delivers substantially all of its tax bills.

(f) Except as required by the law under which an obligation was created, the governing body may not apply any tax revenues generated by the rate described in Subsection (a)(1) of this section for any purpose other than the retirement of debt.

(g) Notwithstanding Subsection (a), the governing body of a school district that elects to adopt a tax rate before the adoption of a budget for the fiscal year that begins in the current tax year may adopt a tax rate for the current tax year before receipt of the certified appraisal roll for the school district if the chief appraiser of the appraisal district in which the school district participates has certified to the assessor for the school district an estimate of the taxable value of property in the school district as provided by Section 26.01(e). If a school district adopts a tax rate under this subsection, the effective tax rate and the rollback tax rate of the district shall be calculated based on the certified estimate of taxable value.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 117, effective January 1, 1982; am. Acts 1985, 69th Leg., ch. 657 (S.B. 1125), § 3, effective June 14, 1985; am. Acts 1987, 70th Leg., ch. 699 (S.B. 1420), § 2, effective June 19, 1987; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 7, effective January 1, 1988; am. Acts 1987, 70th Leg., ch. 988 (S.B. 1420), § 2, effective June 18, 1987; am. Acts 1991, 72nd Leg., ch. 404 (S.B. 293), § 1, effective January 1, 1992; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.06, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 27, effective January 1, 1998; am. Acts 1999, 76th Leg., ch. 398 (H.B. 2075), § 3, effective August 30, 1999; am. Acts 1999, 76th Leg., ch. 423 (S.B. 1118), § 1, effective January 1, 2000; am. Acts 1999, 76th Leg., ch. 1358 (H.B. 954), § 2, effective January 1, 2000; am. Acts 2005, 79th Leg., ch. 412 (S.B. 1652), § 13, effective September 1, 2005; am. Acts 2005, 79th Leg., ch. 1368 (S.B. 18), §§ 1, 5, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 921 (H.B. 3167), § 14.001, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 668 (H.B. 2291), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 86, effective September 1, 2009; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), § 57.28, effective September 28, 2011.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 668 (H.B. 2291), § 2 provides:

"(a) The change in law made by this Act applies to the ad valorem tax rate of a taxing unit beginning with the 2009 tax year, except as provided by Subsection (b) of this section.

(b) If the governing body of a taxing unit adopted an ad valorem tax rate for the taxing unit for the 2009 tax year before the effective date of this Act [June 19, 2009], the change in law made by this Act applies to the ad valorem tax rate of that taxing unit beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that taxing unit."

Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 101 provides: "Section 44.004, Education Code, Sections 3.005 and 4.008, Election Code, and Sections 26.01 and 26.05, Tax Code, as amended by this Act, apply only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act [September 1, 2009]."

Sec. 26.051. Evidence of Unrecorded Tax Rate Adoption.

(a) If a taxing unit does not make a proper record of the adoption of a tax rate for a year but the tax rate can be determined by examining the tax rolls for that year, the governing body of the taxing unit may take testimony or make other inquiry to determine whether a tax rate was properly adopted for that year. If the governing body determines that a tax rate was properly adopted, it may order that its official records for that year be amended nunc pro tunc to reflect the adoption of the rate.

(b) An amendment of the official records made under Subsection (a) of this section is prima facie evidence that the tax rate entered into the records was properly and regularly adopted for that year.

(Enacted by Acts 1989, 71st Leg., ch. 2 (S.B. 221), § 14.01(a), effective August 28, 1989.)

Sec. 26.052. Simplified Tax Rate Notice for Taxing Units with Low Tax Levies.

(a) This section applies only to a taxing unit for which the total tax rate proposed for the current tax year:

(1) is 50 cents or less per $100 of taxable value; and

(2) would impose taxes of $500,000 or less when applied to the current total value for the taxing unit.

(b) A taxing unit to which this section applies is exempt from the notice and publication requirements of Section 26.04(e) and is not subject to an injunction under Section 26.04(g) for failure to comply with those requirements.

(c) A taxing unit to which this section applies may provide public notice of its proposed tax rate in either of the following methods not later than the seventh day before the date on which the tax rate is adopted:

(1) mailing a notice of the proposed tax rate to each owner of taxable property in the taxing unit; or

(2) publishing notice of the proposed tax rate in the legal notices section of a newspaper having general circulation in the taxing unit.

(d) A taxing unit that provides public notice of a proposed tax rate under Subsection (c) is exempt from Sections 26.05(d) and 26.06 and is not subject to an injunction under Section 26.05(e) for failure to comply with Section 26.05(d). A taxing unit that provides public notice of a proposed tax rate under Subsection (c) may not adopt a tax rate that exceeds

the rate set out in the notice unless the taxing unit provides additional public notice under Subsection (c) of the higher rate or complies with Sections 26.05(d) and 26.06, as applicable, in adopting the higher rate.

(e) Public notice provided under Subsection (c) must specify:

(1) the tax rate that the governing body proposes to adopt;

(2) the date, time, and location of the meeting of the governing body of the taxing unit at which the governing body will consider adopting the proposed tax rate; and

(3) if the proposed tax rate for the taxing unit exceeds the unit's effective tax rate calculated as provided by Section 26.04, a statement substantially identical to the following: "The proposed tax rate would increase total taxes in (name of taxing unit) by (percentage by which the proposed tax rate exceeds the effective tax rate)."

(Enacted by Acts 1999, 76th Leg., ch. 255 (H.B. 1520), § 1, effective May 28, 1999.)

Sec. 26.06. Notice, Hearing, and Vote on Tax Increase.

(a) A public hearing required by Section 26.05 may not be held before the seventh day after the date the notice of the public hearing is given. The second hearing may not be held earlier than the third day after the date of the first hearing. Each hearing must be on a weekday that is not a public holiday. Each hearing must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. At the hearings, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.

(b) The notice of a public hearing may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 24-point or larger type. The notice must contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

"The (name of the taxing unit) will hold two public hearings on a proposal to increase total tax revenues from properties on the tax roll in the preceding tax year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent. Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

"The first public hearing will be held on (date and time) at (meeting place).

"The second public hearing will be held on (date and time) at (meeting place).

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)

"The average taxable value of a residence homestead in (name of taxing unit) last year was $_____ (average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). Based on last year's tax rate of $_____ (preceding year's adopted tax rate) per $100 of taxable value, the amount of taxes imposed last year on the average home was $_____ (tax on average taxable value of a residence homestead in the taxing unit for the preceding tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"The average taxable value of a residence homestead in (name of taxing unit) this year is $_____ (average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older). If the governing body adopts the effective tax rate for this year of $_____ (effective tax rate) per $100 of taxable value, the amount of taxes imposed this year on the average home would be $_____ (tax on average taxable value of a residence homestead in the taxing unit for the current tax year, disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"If the governing body adopts the proposed tax rate of $_____ (proposed tax rate) per $100 of taxable value, the amount of taxes imposed this year on the average home would be $_____ (tax on the average taxable value of a residence in the taxing unit for the current year disregarding residence homestead exemptions available only to disabled persons or persons 65 years of age or older).

"Members of the public are encouraged to attend the hearings and express their views."

(c) The notice of a public hearing under this section may be delivered by mail to each property owner in the unit, or may be published in a newspaper. If the notice is published in a newspaper, it

may not be in the part of the paper in which legal notices and classified advertisements appear. If the taxing unit operates an Internet website, the notice must be posted on the website from the date the notice is first published until the second public hearing is concluded.

(d) At the public hearings the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed tax rate. After each hearing the governing body shall give notice of the meeting at which it will vote on the proposed tax rate and the notice shall be in the same form as prescribed by Subsections (b) and (c), except that it must state the following:

"NOTICE OF TAX REVENUE INCREASE

"The (name of the taxing unit) conducted public hearings on (date of first hearing) and (date of second hearing) on a proposal to increase the total tax revenues of the (name of the taxing unit) from properties on the tax roll in the preceding year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent.

"The total tax revenue proposed to be raised last year at last year's tax rate of (insert tax rate for the preceding year) for each $100 of taxable value was (insert total amount of taxes imposed in the preceding year).

"The total tax revenue proposed to be raised this year at the proposed tax rate of (insert proposed tax rate) for each $100 of taxable value, excluding tax revenue to be raised from new property added to the tax roll this year, is (insert amount computed by multiplying proposed tax rate by the difference between current total value and new property value).

"The total tax revenue proposed to be raised this year at the proposed tax rate of (insert proposed tax rate) for each $100 of taxable value, including tax revenue to be raised from new property added to the tax roll this year, is (insert amount computed by multiplying proposed tax rate by current total value).

"The (governing body of the taxing unit) is scheduled to vote on the tax rate that will result in that tax increase at a public meeting to be held on (date of meeting) at (location of meeting, including mailing address) at (time of meeting)."

(e) The meeting to vote on the tax increase may not be earlier than the third day or later than the 14th day after the date of the second public hearing. The meeting must be held inside the boundaries of the taxing unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. If the governing body does not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate by the 14th day, it must give a new notice under Subsection (d) before it may adopt a rate that exceeds the lower of the rollback tax rate or the effective tax rate.

(f) [Repealed by Acts 2005, 79th Leg., ch. 1368 (S.B. 18), § 6, effective June 18, 2005.]

(g) This section does not apply to a school district. A school district shall provide notice of a public hearing on a tax increase as required by Section 44.004, Education Code.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 118, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 1029 (H.B. 2285), § 1, effective September 1, 1983; am. Acts 1985, 69th Leg., 1st C.S., ch. 1 (S.B. 1), § 3, effective September 1, 1986; am. Acts 1985, 69th Leg., ch. 657 (S.B. 1125), § 4, effective June 14, 1985; am. Acts 1987, 70th Leg., ch. 456 (H.B. 328), § 1, effective August 31, 1987; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 8, effective January 1, 1988; am. Acts 1989, 71st Leg., ch. 940 (H.B. 108), § 1, effective September 1, 1989; am. Acts 1991, 72nd Leg., 2nd C.S., ch. 6 (S.B. 45), § 46, effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.07, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1039 (S.B. 841), §§ 28, 29, effective January 1, 1998; am. Acts 1999, 76th Leg., ch. 398 (H.B. 2075), § 4, effective August 30, 1999; am. Acts 1999, 76th Leg., ch. 1358 (H.B. 954), § 3, effective January 1, 2000; am. Acts 2005, 79th Leg., ch. 807 (S.B. 567), § 1, effective June 17, 2005; am. Acts 2005, 79th Leg., ch. 1368 (S.B. 18), §§ 2,6, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1105 (H.B. 3495), § 1, effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 1112 (H.B. 3630), § 5(a)—(c), effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 22.005, effective September 1, 2009.)

Sec. 26.065. Supplemental Notice of Hearing on Tax Rate Increase.

(a) In addition to the notice required under Section 26.06, the governing body of a taxing unit required to hold a public hearing by Section 26.05(d) shall give notice of the hearing in the manner provided by this section.

(b) If the taxing unit owns, operates, or controls an Internet website, the unit shall post notice of the public hearing on the website continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least

seven days immediately before the date of the vote proposing the increase in the tax rate.

(c) If the taxing unit has free access to a television channel, the taxing unit shall request that the station carry a 60-second notice of the public hearing at least five times a day between the hours of 7 a.m. and 9 p.m. for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

(d) The notice of the public hearing required by Subsection (b) must contain a statement that is substantially the same as the statement required by Section 26.06(b).

(e) This section does not apply to a taxing unit if the taxing unit:

(1) is unable to comply with the requirements of this section because of the failure of an electronic or mechanical device, including a computer or server; or

(2) is unable to comply with the requirements of this section due to other circumstances beyond its control.

(f) A person who owns taxable property is not entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the taxing unit has, in good faith, attempted to comply with the requirements of this section.

(Enacted by Acts 1999, 76th Leg., ch. 1358 (H.B. 954), § 5, effective January 1, 2001; am. Acts 2005, 79th Leg., ch. 1368 (S.B. 18), § 3, effective June 18, 2005.)

Sec. 26.07. Election to Repeal Increase.

(a) If the governing body of a taxing unit other than a school district adopts a tax rate that exceeds the rollback tax rate calculated as provided by this chapter, the qualified voters of the taxing unit by petition may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate calculated as provided by this chapter.

(b) A petition is valid only if:

(1) it states that it is intended to require an election in the taxing unit on the question of reducing the tax rate for the current year;

(2) it is signed by a number of registered voters of the taxing unit equal to at least:

(A) seven percent of the number of registered voters of the taxing unit according to the most recent list of registered voters if the tax rate adopted for the current tax year would impose taxes for maintenance and operations in an amount of at least $5 million; or

(B) 10 percent of the number of registered voters of the taxing unit according to the most recent official list of registered voters if the tax rate adopted for the current tax year would impose taxes for maintenance and operations in an amount of less than $5 million; and

(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.

(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

(d) If the governing body finds that the petition is valid (or fails to act within the time allowed), it shall order that an election be held in the taxing unit on a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Reducing the tax rate in (name of taxing unit) for the current year from (the rate adopted) to (the rollback tax rate calculated as provided by this chapter)."

(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the tax rate for the taxing unit for the current year is the rollback tax rate calculated as provided by this chapter; otherwise, the tax rate for the current year is the one adopted by the governing body.

(f) If the tax rate is reduced by an election called under this section after tax bills for the unit are mailed, the assessor for the unit shall prepare and mail corrected tax bills. He shall include with the bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

(g) If a property owner pays taxes calculated using the higher tax rate when the rate is reduced by an election called under this section, the taxing unit shall refund the difference between the amount of taxes paid and the amount due under the reduced rate if the difference between the amount of taxes paid and the amount due under the reduced rate is $1 or more. If the difference between the amount of taxes paid and the amount due under the reduced rate is less than $1, the taxing unit shall refund the

difference on request of the taxpayer. An application for a refund of less than $1 must be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund.

(h) to (j) [Expired pursuant to Acts 1987, 70th Leg., ch. 457 (H.B. 344), § 13, effective June 1, 1989.]

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 119, effective January 1, 1982; am. Acts 1985, 69th Leg., 1st C.S., ch. 1 (S.B. 1), § 2(a), effective September 1, 1985; am. Acts 1987, 70th Leg., ch. 457 (H.B. 344), § 13, effective September 1, 1987; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 9, effective January 1, 1988; am. Acts 1993, 73rd Leg., ch. 292 (H.B. 366), § 1, effective September 1, 1993; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 84, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 29.08, effective September 1, 1997; am. Acts 2005, 79th Leg., ch. 1368 (S.B. 18), § 4, effective June 18, 2005.)

Sec. 26.08. Election to Ratify School Taxes.

(a) If the governing body of a school district adopts a tax rate that exceeds the district's rollback tax rate, the registered voters of the district at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.

(b) The governing body shall order that the election be held in the school district on a date not less than 30 or more than 90 days after the day on which it adopted the tax rate. Section 41.001, Election Code, does not apply to the election unless a date specified by that section falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving the ad valorem tax rate of $ __ per $100 valuation in (name of school district) for the current year, a rate that is $ __ higher per $100 valuation than the school district rollback tax rate." The ballot proposition must include the adopted tax rate and the difference between that rate and the rollback tax rate in the appropriate places.

(c) If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body.

(d) If the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the school district for the current year that exceeds the school district's rollback tax rate.

(d-1) If, after tax bills for the school district have been mailed, a proposition to approve the school district's adopted tax rate is not approved by the voters of the district at an election held under this section, on subsequent adoption of a new tax rate by the governing body of the district, the assessor for the school shall prepare and mail corrected tax bills. The assessor shall include with each bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

(d-2) If a property owner pays taxes calculated using the originally adopted tax rate of the school district and the proposition to approve the adopted tax rate is not approved by voters, the school district shall refund the difference between the amount of taxes paid and the amount due under the subsequently adopted rate if the difference between the amount of taxes paid and the amount due under the subsequent rate is $1 or more. If the difference between the amount of taxes paid and the amount due under the subsequent rate is less than $1, the school district shall refund the difference on request of the taxpayer. An application for a refund of less than $1 must be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund.

(e) For purposes of this section, local tax funds dedicated to a junior college district under Section 45.105(e), Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085.

(f) [Repealed by Acts 1999, 76th Leg., ch. 396 (S.B. 4), § 3.01(c), effective September 1, 1999.]

(g) In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit system's abolition is added to the district's rollback tax rate.

(h) For purposes of this section, increases in taxable values and tax levies occurring within a reinvestment zone under Chapter 311 (Tax Increment Financing Act), in which the district is a participant,

shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district.

(i) **[2 Versions: Effective until September 1, 2017]** For purposes of this section, the effective maintenance and operations tax rate of a school district is the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, including state funds that will be distributed to the district in that school year under Section 42.2516, Education Code, would provide the same amount of state funds distributed under Chapter 42, Education Code, including state funds distributed under Section 42.2516, Education Code, and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year.

(i) **[2 Versions: Effective September 1, 2017]** For purposes of this section, the effective maintenance and operations tax rate of a school district is the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42, Education Code, and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year.

(i-1) **[Repealed September 1, 2017]** For purposes of Subsections (i) and (k), any change from the preceding school year to the current school year in the amount of state funds distributed to a school district under Section 42.2516, Education Code, is not considered to be a change in a funding element for Chapter 42, Education Code. The amount of state funds distributed under Chapter 42, Education Code, and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year is computed on the basis of the amount actually distributed to the district under Section 42.2516, Education Code, in the preceding school year.

(j) **[Repealed September 1, 2017]** For purposes of Subsection (i), the amount of state funds that would have been available to a school district in the preceding year is computed using the maximum tax rate for the current year under Section 42.253(e), Education Code.

(k) to (m) [Expired pursuant to Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), § 2.11, effective January 1, 2009.]

(n) For purposes of this section, the rollback tax rate of a school district whose maintenance and operations tax rate for the 2005 tax year was $1.50 or less per $100 of taxable value is:

(1) for the 2006 tax year, the sum of the rate that is equal to 88.67 percent of the maintenance and operations tax rate adopted by the district for the 2005 tax year, the rate of $0.04 per $100 of taxable value, and the district's current debt rate; and

(2) for the 2007 and subsequent tax years, the lesser of the following:

(A) the sum of the following:

(i) the rate per $100 of taxable value that is equal to the product of the state compression percentage, as determined under Section 42.2516, Education Code, for the current year and $1.50;

(ii) the rate of $0.04 per $100 of taxable value;

(iii) the rate that is equal to the sum of the differences for the 2006 and each subsequent tax year between the adopted tax rate of the district for that year if the rate was approved at an election under this section and the rollback tax rate of the district for that year; and

(iv) the district's current debt rate; or

(B) the sum of the following:

(i) the effective maintenance and operations tax rate of the district as computed under Subsection (i) or (k), as applicable;

(ii) the rate per $100 of taxable value that is equal to the product of the state compression percentage, as determined under Section 42.2516, Education Code, for the current year and $0.06; and

(iii) the district's current debt rate.

(o) For purposes of this section, the rollback tax rate of a school district whose maintenance and operations tax rate for the 2005 tax year was greater than $1.50 per $100 of taxable value is computed in the manner provided by Subsection (n) except that the maintenance and operations tax rate per $100 of

taxable value adopted by the district for the 2005 tax year is substituted for $1.50 in a computation under that subsection.

(p) Notwithstanding Subsections (i), (n), and (o), if for the preceding tax year a school district adopted a maintenance and operations tax rate that was less than the district's effective maintenance and operations tax rate for that preceding tax year, the rollback tax rate of the district for the current tax year is calculated as if the district adopted a maintenance and operations tax rate for the preceding tax year that was equal to the district's effective maintenance and operations tax rate for that preceding tax year. (Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 120, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 987 (H.B. 2076), § 4, effective June 19, 1983; am. Acts 1984, 68th Leg., 2nd C.S., ch. 28 (H.B. 72), § II(14), effective September 1, 1984; am. Acts 1987, 70th Leg., ch. 947 (H.B. 1866), § 10, effective January 1, 1988; am. Acts 1989, 71st Leg., ch. 816 (S.B. 1019), § 22, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 20 (S.B. 351), §§ 20, 26, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 347 (S.B. 7), § 2.04, effective May 31, 1993; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 85, effective September 1, 1993; am. Acts 1995, 74th Leg., ch. 260 (S.B. 1), § 47, effective May 30, 1995; am. Acts 1995, 74th Leg., ch. 506 (H.B. 1537), § 4, effective August 28, 1995; am. Acts 1995, 74th Leg., ch. 828 (H.B. 2610), § 4, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 592 (H.B. 4), § 2.03, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 396 (S.B. 4), §§ 1.40, 3.01, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1187 (H.B. 3343), § 2.11, effective September 1, 2001; am. Acts 2006, 79th Leg., 3rd C.S., ch. 5 (H.B. 1), § 1.14, effective May 31, 2006; am. Acts 2009, 81st Leg., ch. 777 (S.B. 1024), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1240 (S.B. 2274), § 1, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 87(a), effective June 19, 2009; am. Acts 2011, 82nd Leg., ch. 91 (S.B. 1303), § 23.002, effective September 1, 2011; am. Acts 2011, 82nd Leg., 1st C.S., ch. 4 (S.B. 1), §§ 57.29, 57.32(b), effective September 1, 2017.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 1240 (S.B. 2274), § 3 provides:

"(a) The change in law made by this Act applies to the ad valorem tax rate of a school district beginning with the 2009 tax year, except as provided by Subsection (b) of this section.

(b) If the governing body of a school district adopted an ad valorem tax rate for the school district for the 2009 tax year before the effective date of this Act [June 19, 2009], the change in law made by this Act applies to the ad valorem tax rate of that school district beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that school district."

Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 87(c), and (d) provides:

"(c) The change in law made by this section applies to the ad valorem tax rate of a school district beginning with the 2009 tax year, except as provided by Subsection (d) of this section.

(d) If the governing body of a school district adopted an ad valorem tax rate for the school district for the 2009 tax year before the effective date of this section [June 19, 2009], the change in law made by this section applies to the ad valorem tax rate of that school district beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that school district.

Sec. 26.081. Petition Signatures.

(a) A voter's signature on a petition filed in connection with an election under this chapter is not required to appear exactly as the voter's name appears on the most recent official list of registered voters for the signature to be valid.

(b) If the governing body reviewing the petition is unable to verify the validity of a particular voter's signature, and the petition does not contain any reasonable means by which they might otherwise do so, such as the voter's registration number, home address, or telephone number, the governing body may then require the organizer of the petition to provide such information for that particular voter if the organizer wishes for the signature to be counted. (Enacted by Acts 1989, 71st Leg., ch. 319 (H.B. 2423), § 1, effective September 1, 1989.)

Sec. 26.085. Election to Limit Dedication of School Funds to Junior College.

(a) If the percentage of the total tax levy of a school district dedicated by the governing body of the school district to a junior college district under Section 45.105(e), Education Code, exceeds the percentage of the total tax levy of the school district for the preceding year dedicated to the junior college district under that section, the qualified voters of the school district by petition may require that an election be held to determine whether to limit the percentage of the total tax levy dedicated to the junior college district to the same percentage as the percentage of the preceding year's total tax levy dedicated to the junior college district.

(b) A petition is valid only if:

(1) it states that it is intended to require an election on the question of limiting the amount of school district tax funds to be dedicated to the junior college district for the current year;

(2) it is signed by a number of registered voters of the school district equal to at least 10 percent of the number of registered voters of the school district according to the most recent official list of registered voters; and

(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body made the dedication to the junior college district.

(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

(d) If the governing body finds that the petition is valid (or fails to act within the time allowed), it shall order that an election be held in the school district on a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Limiting the portion of the (name of school district) tax levy dedicated to the (name of junior college district) for the current year to the same portion that was dedicated last year."

(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the percentage of the total tax levy of the school district for the year to which the election applies dedicated to the junior college district is reduced to the same percentage of the total tax levy that was dedicated to the junior college district by the school district in the preceding year. If the proposition is approved by a majority of the qualified voters voting in an election to limit the dedication to the junior college district in a year following a year in which there was no dedication of local tax funds to the junior college district under Section 45.105(e), Education Code, the school district may not dedicate any local tax funds to the junior college district in the year to which the election applies. If the proposition is not approved by a majority of the qualified voters voting in the election, the percentage of the total tax levy dedicated to the junior college district is the percentage adopted by the governing body.

(Enacted by Acts 1983, 68th Leg., ch. 987 (H.B. 2076), § 2, effective June 19, 1983; am. Acts 1993, 73rd Leg., ch. 728 (H.B. 75), § 86, effective September 1, 1993; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 6.78, effective September 1, 1997.)

Sec. 26.09. Calculation of Tax.

(a) On receipt of notice of the tax rate for the current tax year, the assessor for a taxing unit other than a county shall calculate the tax imposed on each property included on the appraisal roll for the unit.

(b) The county assessor-collector shall add the properties and their values certified to him as provided by Chapter 24 of this code to the appraisal roll for county tax purposes. The county assessor-collector shall use the appraisal roll certified to him as provided by Section 26.01 with the added properties and values to calculate county taxes.

(c) The tax is calculated by:

(1) subtracting from the appraised value of a property as shown on the appraisal roll for the unit the amount of any partial exemption allowed the property owner that applies to appraised value to determine net appraised value;

(2) multiplying the net appraised value by the assessment ratio to determine assessed value;

(3) subtracting from the assessed value the amount of any partial exemption allowed the property owner to determine taxable value; and

(4) multiplying the taxable value by the tax rate.

(d) If a property is subject to taxation for a prior year in which it escaped taxation, the assessor shall calculate the tax for each year separately. In calculating the tax, the assessor shall use the assessment ratio and tax rate in effect in the unit for the year for which back taxes are being imposed. Except as provided by Subsection (d-1), the amount of back taxes due incurs interest calculated at the rate provided by Section 33.01(c) from the date the tax would have become delinquent had the tax been imposed in the proper tax year.

(d-1) For purposes of this subsection, an appraisal district has constructive notice of the presence of an improvement if a building permit for the improvement has been issued by an appropriate governmental entity. Back taxes assessed under Subsection (d) on an improvement to real property do not incur interest if:

(1) the land on which the improvement is located did not escape taxation in the year in which the improvement escaped taxation;

(2) the appraisal district had actual or constructive notice of the presence of the improvement in the year in which the improvement escaped taxation; and

(3) the property owner pays all back taxes due on the improvement not later than the 120th day after the date the tax bill for the back taxes on the improvement is sent.

(d-2) For purposes of Subsection (d-1)(3), if an appeal under Chapter 41A or 42 relating to the taxes imposed on the omitted improvement is pending on the date prescribed by that subdivision, the property owner is considered to have paid the back taxes due

by that date if the property owner pays the amount of taxes required by Section 41A.10 or 42.08, as applicable.

(e) The assessor shall enter the amount of tax determined as provided by this section in the appraisal roll and submit it to the governing body of the unit for approval. The appraisal roll with amounts of tax entered as approved by the governing body constitutes the unit's tax roll.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 121, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 851 (H.B. 1203), § 19, effective August 29, 1983; am. Acts 2011, 82nd Leg., ch. 138 (S.B. 551), § 1, effective September 1, 2011.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 138 (S.B. 551), § 3 provides: "The change in law made by this Act applies only to an omitted improvement included in a tax bill that is first sent to the property owner on or after the effective date of this Act [September 1, 2011]."

Sec. 26.10. Prorating Taxes—Loss of Exemption.

(a) If the appraisal roll shows that a property is eligible for taxation for only part of a year because an exemption, other than a residence homestead exemption, applicable on January 1 of that year terminated during the year, the tax due against the property is calculated by multiplying the tax due for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days the exemption is not applicable.

(b) **[3 Versions: Effective Until January 1, 2014, Contingent on Voter Approval]** If the appraisal roll shows that a residence homestead exemption for an individual 65 years of age or older or a residence homestead exemption for a disabled individual applicable to a property on January 1 of a year terminated during the year and if the owner qualifies a different property for one of those residence homestead exemptions during the same year, the tax due against the former residence homestead is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the individual qualified for the residence homestead exemption for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the individual not qualified for the residence homestead exemption during the year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

(b) **[3 Versions: As amended by Acts 2013, 83rd Leg., ch. 122, effective January 1, 2014, Contingent on Voter Approval—See Editor's Note]** If the appraisal roll shows that a residence homestead exemption under Section 11.13(c) or (d) or 11.132 applicable to a property on January 1 of a year terminated during the year and if the owner qualifies a different property for one of those residence homestead exemptions during the same year, the tax due against the former residence homestead is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the individual qualified for the residence homestead exemption for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the individual not qualified for the residence homestead exemption during the year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

(b) **[3 Versions: As amended by Acts 2013, 83rd Leg., ch. 138, effective January 1, 2014, Contingent on Voter Approval—See Editor's Note]** If the appraisal roll shows that a residence homestead exemption under Section 11.13(c) or (d) or 11.132 applicable to a property on January 1 of a year terminated during the year and if the owner of the property qualifies a different property for one of those residence homestead exemptions during the same year, the tax due against the former residence homestead is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the owner qualified for the residence homestead exemption for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the owner not qualified for the residence homestead exemption during the year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

(c) If the appraisal roll shows that a residence homestead exemption under Section 11.131 applicable to a property on January 1 of a year terminated during the year, the tax due against the residence homestead is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the exemption under Section 11.131 during the year by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1983, 68th Leg., ch. 896 (H.B. 1502), § 1, effective January 1, 1984; am. Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 30, effective January 1, 1998; am. Acts 1997, 75th Leg., ch. 1059 (S.B. 1437), § 5, effective January 1, 1998; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 16.06, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1061 (H.B. 1940), § 1, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 411 (H.B. 217), § 5, effective January 1, 2004; am. Acts 2011, 82nd Leg., ch. 597 (S.B. 201), § 2, effective January 1, 2012; am. Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 5, effective January 1, 2014; am. Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 5, effective January 1, 2014.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 9 provides: "This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing the legislature to provide for an exemption from ad valorem taxation of part of the market value of the residence homestead of a partially disabled veteran or the surviving spouse of a partially disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization is approved by the voters. If that amendment is not approved by the voters, this Act has no effect."

Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 9 provides: "This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action is approved by the voters. If that amendment is not approved by the voters, this Act has no effect."

The amendment to Tex. Tax Code Ann. § 26.10 by Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 5, effective January 1, 2014, and by Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 5, effective January 1, 2014, is contingent on voter approval of HJR 24 and HJR 62, respectively, at the November 5, 2013 election.

Applicability. — Acts 2011, 82nd Leg., ch. 597 (S.B. 201), § 4 provides: "This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act [January 1, 2012]."

Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 8 provides: "This Act applies only to ad valorem taxes imposed for an ad valorem tax year that begins on or after the effective date of this Act [January 1, 2014]."

Sec. 26.11. Prorating Taxes—Acquisition by Government.

(a) If the federal government, the state, or a political subdivision of the state acquires the right to possession of taxable property under a court order issued in condemnation proceedings or acquires title to taxable property, the amount of the tax due on the property is calculated by multiplying the amount of taxes imposed on the property for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed prior to the date of the conveyance or the date of the order granting the right of possession.

(b) If the amount of taxes to be imposed on the property for the year of transfer has not been determined at the time of transfer, the assessor for each taxing unit in which the property is taxable may use the taxes imposed on the property for the preceding tax year as the basis for determining the amount of taxes to be imposed for the current tax year.

(c) If the amount of prorated taxes determined to be due as provided by this section is tendered to the collector for the unit, the collector shall accept the tender. The payment absolves:

(1) the transferor of liability for taxes by the unit on the property for the year of the transfer; and

(2) the taxing unit of liability for a refund in connection with taxes on the property for the year of the transfer.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 2005, 79th Leg., ch. 1126 (H.B. 2491), § 8, effective September 1, 2005.)

Sec. 26.111. Prorating Taxes—Acquisition by Charitable Organization.

(a) If an organization acquires taxable property that qualifies for and is granted an exemption under Section 11.181(a) or 11.182(a) for the year in which the property was acquired, the amount of tax due on the property for that year is calculated by multiplying the amount of taxes imposed on the property for

the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the charitable organization acquired the property.

(b) If the exemption terminates during the year of acquisition, the tax due is calculated by multiplying the taxes imposed for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days the property does not qualify for the exemption.

(Enacted by Acts 1993, 73rd Leg., ch. 345 (H.B. 1096), § 4, effective January 1, 1994; am. Acts 1997, 75th Leg., ch. 715 (H.B. 137), § 4, effective January 1, 1998.)

Sec. 26.112. [2 Versions: Effective Until January 1, 2014, Contingent on Voter Approval—See Editor's Note] Calculation of Taxes on Residence Homestead of Elderly or Disabled Person.

(a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.13(c) or (d), the amount of the tax due on the property for the tax year is calculated as if the person qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If a person qualifies for an exemption under Section 11.13(c) or (d) with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

(Enacted by Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 31, effective January 1, 1998; enacted by Acts 1997, 75th Leg., ch. 1059 (S.B. 1437), § 6, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 1481 (H.B. 3549), § 8, effective January 1, 2000; am. Acts 2001, 77th Leg., ch. 1061 (H.B. 1940), § 2, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 411 (H.B. 217), § 6, effective January 1, 2004.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 9 provides: "This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action is approved by the voters. If that amendment is not approved by the voters, this Act has no effect."

If the amendment to Tex. Tax Code Ann. § 26.112 by Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 6, effective January 1, 2014, is approved on voter approval of HJR 62, at the November 5, 2013 election, this version will no longer be effective on January 1, 2014.

Sec. 26.112. [2 Versions: Effective January 1, 2014, Contingent on Voter Approval—See Editor's Note] Calculation of Taxes on Residence Homestead of Certain Persons.

(a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.13(c) or (d) or 11.132, the amount of the tax due on the property for the tax year is calculated as if the individual qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If an individual qualifies for an exemption under Section 11.13(c) or (d) or 11.132 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

(Enacted by Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 31, effective January 1, 1998; enacted by Acts 1997, 75th Leg., ch. 1059 (S.B. 1437), § 6, effective June 19, 1997; am. Acts 1999, 76th Leg., ch. 1481 (H.B. 3549), § 8, effective January 1, 2000; am. Acts 2001, 77th Leg., ch. 1061 (H.B. 1940), § 2, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 411 (H.B. 217), § 6, effective January 1, 2004; am. Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 6, effective January 1, 2014.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 9 provides: "This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in

action is approved by the voters. If that amendment is not approved by the voters, this Act has no effect."

The amendment to Tex. Tax Code Ann. § 26.112 by Acts 2013, 83rd Leg., ch. 138 (S.B. 163), § 6, effective January 1, 2014, is contingent on voter approval of HJR 62, at the November 5, 2013 election.

Sec. 26.1125. Calculation of Taxes on Residence Homestead of 100 Percent or Totally Disabled Veteran.

(a) If a person qualifies for an exemption under Section 11.131 after the beginning of a tax year, the amount of the taxes on the residence homestead of the person for the tax year is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the person not qualified for the exemption under Section 11.131 by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed before the date the person qualified for the exemption under Section 11.131.

(b) If a person qualifies for an exemption under Section 11.131 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

(Enacted by Acts 2011, 82nd Leg., ch. 597 (S.B. 201), § 3, effective January 1, 2012.)

STATUTORY NOTES

Applicability. — Acts 2011, 82nd Leg., ch. 597 (S.B. 201), § 4 provides: "This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act [January 1, 2012]."

Sec. 26.1127. [Effective January 1, 2014, Contingent on Voter Approval—See Editor's Note] Calculation of Taxes on Donated Residence Homestead of Disabled Veteran or Surviving Spouse of Disabled Veteran.

(a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.132, the amount of the tax due on the property for the tax year is calculated as if the individual qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If an individual qualifies for an exemption under Section 11.132 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the individual in whose name the property is listed on the tax roll or to the individual's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the individual who paid the tax the amount by which the payment exceeded the tax due.

(Enacted by Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 6, effective January 1, 2014.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 9 provides: "This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing the legislature to provide for an exemption from ad valorem taxation of part of the market value of the residence homestead of a partially disabled veteran or the surviving spouse of a partially disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization is approved by the voters. If that amendment is not approved by the voters, this Act has no effect."

The enactment of Tex. Tax Code Ann. § 26.1127 by Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 6, effective January 1, 2014, is contingent on voter approval of HJR 24, at the November 5, 2013 election.

Applicability. — Acts 2013, 83rd Leg., ch. 122 (H.B. 97), § 8 provides: "This Act applies only to ad valorem taxes imposed for an ad valorem tax year that begins on or after the effective date of this Act [January 1, 2014]."

Sec. 26.113. Prorating Taxes—Acquisition by Nonprofit Organization.

(a) If a person acquires taxable property that qualifies for and is granted an exemption covered by Section 11.42(d) for a portion of the year in which the property was acquired, the amount of tax due on the property for that year is computed by multiplying the amount of taxes imposed on the property for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the property qualified for the exemption.

(b) If the exemption terminates during the year of acquisition, the tax due is computed by multiplying the taxes imposed for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days the property does not qualify for the exemption.

(Enacted by Acts 1997, 75th Leg., ch. 1039 (S.B. 841), § 31, effective January 1, 1998; am. Acts 1997,

75th Leg., ch. 1155 (S.B. 95), § 3, effective January 1, 1998; am. Acts 1999, 76th Leg., ch. 1481 (H.B. 3549), § 9, effective January 1, 2000.)

Sec. 26.12. Units Created During Tax Year.

(a) If a taxing unit is created after January 1 and before July 1, the chief appraiser shall prepare and deliver an appraisal roll for the unit as provided by Section 26.01 of this code as if the unit had existed on January 1.

(b) If the taxing unit created after January 1 and before July 1 imposes taxes for the year, it shall do so as provided by this chapter as if it had existed on January 1.

(c) If a taxing unit is created too late for observance of the deadline provided by Section 26.01 of this code for certification of the appraisal roll to the assessor for the unit, the chief appraiser shall submit the appraisal roll as provided by Section 26.01 as soon as practicable.

(d) Except as provided by Subsection (e), a taxing unit created after June 30 may not impose property taxes in the year in which the unit is created.

(e) [Repealed by Acts 1993, 73rd Leg., ch. 347 (S.B. 7), § 4.13(2), effective May 31, 1993.]

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1987, 70th Leg., ch. 39 (S.B. 309), § 1, effective January 1, 1988; am. Acts 1989, 71st Leg., ch. 796 (H.B. 432), § 29, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 20 (S.B. 351), § 21, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 347 (S.B. 7), § 4.13(2), effective May 31, 1993.)

Sec. 26.13. Taxing Unit Consolidation During Tax Year.

(a) If two or more taxing units consolidate into a single taxing unit after January 1, the governing body of the consolidated unit may elect to impose taxes for the current tax year either as if the unit as consolidated had existed on January 1 or as if the consolidation had not occurred.

(b) The chief appraiser shall prepare and deliver an appraisal roll for the unit or units in accordance with the election made by the governing body.

(c) Whatever the election, the assessor and collector for the unit, as consolidated shall assess and collect taxes on property that is taxable by the unit as consolidated.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982.)

Sec. 26.135. Tax Dates for Certain School Districts.

(a) A school district that before January 1, 1989, has for at least 10 years followed a practice of adopting its tax rate at a different date than as provided by this chapter and of billing for and collecting its taxes at different dates than as provided by Chapters 31 and 33 may continue to follow that practice.

(b) This section does not affect the dates provided by this title for other purposes, including those relating to the appraisal and taxability of property, the attachment of tax liens and personal liability for taxes, and administrative and judicial review under Chapters 41 and 42.

(Enacted by Acts 1989, 71st Leg., ch. 813 (S.B. 417), § 6.11, effective September 1, 1989.)

Sec. 26.14. Annexation of Property During Tax Year.

(a) Except as provided by Subsection (b) of this section, a taxing unit may not impose a tax on property annexed by the unit after January 1.

(b) If a taxing unit annexes territory during a tax year that was located in another taxing unit of like kind on January 1, each unit shall impose taxes on property located within its boundaries on the date the appraisal review board approves the appraisal roll for the district. The chief appraiser shall prepare and deliver an appraisal roll for each unit in accordance with the requirements of this subsection.

(c) For purposes of this section, "taxing units of like kind" are taxing units that are authorized by the laws by or pursuant to which they are created to perform essentially the same services.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982.)

Sec. 26.15. Correction of Tax Roll.

(a) Except as provided by Chapters 41 and 42 of this code and in this section, the tax roll for a taxing unit may not be changed after it is completed.

(b) The assessor for a unit shall enter on the tax roll the changes made in the appraisal roll as provided by Section 25.25 of this code.

(c) At any time, the governing body of a taxing unit, on motion of the assessor for the unit or of a property owner, shall direct by written order changes in the tax roll to correct errors in the mathematical computation of a tax. The assessor shall enter the corrections ordered by the governing body.

(d) Except as provided by Subsection (e) of this section, if a correction in the tax roll that changes the tax liability of a property owner is made after the tax bill is mailed, the assessor shall prepare and mail a corrected tax bill in the manner provided by Chapter 31 of this code for tax bills generally. He shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(e) If a correction that increases the tax liability of a property owner is made after the tax is paid, the assessor shall prepare and mail a supplemental tax bill in the manner provided by Chapter 31 of this code for tax bills generally. He shall include with the supplemental bill a brief explanation of the reason for and effect of the supplemental bill. The additional tax is due on receipt of the supplemental bill and becomes delinquent if not paid before the delinquency date prescribed by Chapter 31 of this code or before the first day of the next month after the date of the mailing that will provide at least 21 days for payment of the tax, whichever is later.

(f) If a correction decreases the tax liability of a property owner after the owner has paid the tax, the taxing unit shall refund to the property owner the difference between the tax paid and the tax legally due, except as provided by Section 25.25(n).

(g) **[2 Versions: Effective Until January 1, 2014]** A taxing unit that determines a taxpayer is delinquent in ad valorem tax payments on property other than the property for which liability for a refund arises may apply the amount of an overpayment to the payment of the delinquent taxes if the taxpayer was the sole owner of the property:

(1) for which the refund is sought on January 1 of the tax year in which those taxes were assessed; and

(2) on which the taxes are delinquent on January 1 of the tax year for which those taxes were assessed.

(g) **[2 Versions: Effective January 1, 2014]** A taxing unit that determines a taxpayer is delinquent in ad valorem tax payments on property other than the property for which liability for a refund arises or for a tax year other than the tax year for which liability for a refund arises may apply the amount of an overpayment to the payment of the delinquent taxes if the taxpayer was the sole owner of the property:

(1) for which the refund is sought on January 1 of the tax year in which the taxes that were overpaid were assessed; and

(2) on which the taxes are delinquent on January 1 of the tax year for which the delinquent taxes were assessed.

(Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1991, 72nd Leg., ch. 418 (S.B. 1041), § 1, effective August 26, 1991; am. Acts 1993, 73rd Leg., ch. 198 (H.B. 71), § 2, effective September 1, 1993; am. Acts 2001, 77th Leg., ch. 1430 (H.B. 490), § 7, effective September 1, 2001; am. Acts 2013, 83rd Leg., ch. 643 (H.B. 709), § 1, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 643 (H.B. 709), § 4 provides: "This Act applies only to ad valorem taxes imposed for an ad valorem tax year that begins on or after the effective date of this Act [January 1, 2014]."

Sec. 26.16. Posting of Tax Rates on County's Internet Website.

(a) The county assessor-collector for each county that maintains an Internet website shall post on the website of the county the following information for the most recent five tax years beginning with the 2012 tax year for each taxing unit all or part of the territory of which is located in the county:

(1) the adopted tax rate;

(2) the maintenance and operations rate;

(3) the debt rate;

(4) the effective tax rate;

(5) the effective maintenance and operations rate; and

(6) the rollback tax rate.

(b) Each taxing unit all or part of the territory of which is located in the county shall provide the information described by Subsection (a) pertaining to the taxing unit to the county assessor-collector annually following the adoption of a tax rate by the taxing unit for the current tax year. The chief appraiser of the appraisal district established in the county may assist the county assessor-collector in identifying the taxing units required to provide information to the assessor-collector.

(c) The information described by Subsection (a) must be presented in the form of a table under the heading "Truth in Taxation Summary."

(d) The county assessor-collector shall post immediately below the table prescribed by Subsection (c) the following statement:

"The county is providing this table of property tax rate information as a service to the residents of the county. Each individual taxing unit is responsible for calculating the property tax rates listed in this table pertaining to that taxing unit and providing that information to the county.

"The adopted tax rate is the tax rate adopted by the governing body of a taxing unit.

"The maintenance and operations rate is the component of the adopted tax rate of a taxing unit that will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the following year.

"The debt rate is the component of the adopted tax rate of a taxing unit that will impose the amount of taxes needed to fund the unit's debt service for the following year.

"The effective tax rate is the tax rate that would generate the same amount of revenue in the current tax year as was generated by a taxing unit's adopted tax rate in the preceding tax year from property that is taxable in both the current tax year and the preceding tax year.

"The effective maintenance and operations rate is the tax rate that would generate the same amount of revenue for maintenance and operations in the current tax year as was generated by a taxing unit's maintenance and operations rate in the preceding tax year from property that is taxable in both the current tax year and the preceding tax year.

"The rollback tax rate is the highest tax rate a taxing unit may adopt before requiring voter approval at an election. In the case of a taxing unit other than a school district, the voters by petition may require that a rollback election be held if the unit adopts a tax rate in excess of the unit's rollback tax rate. In the case of a school district, an election will automatically be held if the district wishes to adopt a tax rate in excess of the district's rollback tax rate."

(e) The comptroller by rule shall prescribe the manner in which the information described by this section is required to be presented.

(Enacted by Acts 2011, 82nd Leg., ch. 803 (H.B. 2338), § 1, effective September 1, 2011.)

SUBTITLE E
COLLECTIONS AND DELINQUENCY

CHAPTER 33
DELINQUENCY

Subchapter A. General Provisions

Section

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 33.09. [Expires February 1, 2014] Transfer of Delinquent County Education District Taxes.

(a) In this section, "county education district taxes" means ad valorem taxes imposed by a county education district under former Section 20.945, Education Code.

(b) Not later than September 15, 2003, the successor-in-interest to a county education district shall transfer to the component school districts of the county education district all money held by the successor-in-interest that represents delinquent county education district taxes collected after August 31, 1993, less the amount of any costs incurred by the successor-in-interest to collect or maintain that money to the extent that those costs have not been previously reimbursed from the taxes collected. For purposes of this subsection, taxes collected include any penalties or interest collected with the taxes. The amount transferred to each school district must be equal to the difference between:

(1) the amount of the delinquent county education district taxes held by the successor-in-interest that were collected from property located in the school district; and

(2) the school district's share of the unreimbursed costs of collecting and maintaining the money distributed, computed by multiplying the total unreimbursed costs of collecting and maintaining the money by a fraction, the numerator of which is the amount of the delinquent county education district taxes held by the successor-in-interest that were collected from property located in the school district, and the denominator of which is the total amount of the delinquent county education district taxes held by the successor-in-interest.

(c) Not later than September 15, 2003, the successor-in-interest to a county education district shall transfer to the component school districts of the county education district all uncollected delinquent county education district taxes not previously transferred to the component school districts. The uncollected delinquent taxes transferred to each school district must be the uncollected delinquent county education district taxes imposed on property located in the school district.

(d) A school district to which uncollected delinquent county education district taxes are transferred under this section is responsible for:

(1) collecting or contracting for the collection of the taxes; and

(2) preparing and submitting any report required by the commissioner of education or the comptroller of the amount of delinquent county education taxes collected.

(e) This section expires February 1, 2014.

(Enacted by Acts 2001, 77th Leg., ch. 1430 (H.B. 490), § 16, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 409 (H.B. 195), § 1, effective September 1, 2003.)

TITLE 3
LOCAL TAXATION

SUBTITLE B
SPECIAL PROPERTY TAX PROVISIONS

CHAPTER 313
TEXAS ECONOMIC DEVELOPMENT ACT

Subchapter A. General Provisions

Subchapter B. Limitation on Appraised Value of Certain Property Used to Create Jobs [Expires December 31, 2022]

Subchapter C. [Effective Until January 1, 2014] Limitation on Appraised Value of Property in Certain Rural School Districts [Effective January 1, 2014, Expires December 31, 2022] Limitation on Appraised Value of Property in Strategic Investment Area or Certain Rural School Districts

Subchapter D. School Tax Credits [Repealed January 1, 2014]

Subchapter E. [Effective Until January 1, 2014] Availability of Tax Credit After Program Expires [Effective January 1, 2014] Availability of Tax Credit After Program Expires or Is Repealed

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 313.001. Short Title.

This chapter may be cited as the Texas Economic Development Act.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.002. [2 Versions: Effective Until January 1, 2014] Findings.

The legislature finds that:

(1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;

(2) the State of Texas has slipped in its national ranking each year between 1993 and 2000 in terms of attracting major new manufacturing facilities to this state;

(3) a significant portion of the Texas economy continues to be based in the manufacturing industry, and the continued growth and overall health of the manufacturing sector serves the Texas economy well;

(4) without a vibrant, strong manufacturing sector, other sectors of the economy, especially the state's service sector, will also suffer adverse consequences; and

(5) the current property tax system of this state does not favor capital-intensive businesses such as manufacturers.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.002. [2 Versions: Effective January 1, 2014] Findings.

The legislature finds that:

(1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;

(2) given Texas' relatively high ad valorem taxes, it is difficult for the state to compete for new capital projects without temporarily limiting ad valorem taxes imposed on new capital investments;

(3) a significant portion of the Texas economy continues to be based in manufacturing and other capital-intensive industries, and their continued growth and overall health serve the Texas economy well;

(4) without a vibrant, strong manufacturing sector, other sectors of the economy, especially the state's service sector, will also suffer adverse consequences; and

(5) the current ad valorem tax system of this state does not favor capital-intensive businesses such as manufacturers.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.003. [2 Versions: Effective Until January 1, 2014] Purposes.

The purposes of this chapter are to:

(1) encourage large-scale capital investments in this state, especially in school districts that have an ad valorem tax base that is less than the statewide average ad valorem tax base of school districts in this state;

(2) create new, high-paying jobs in this state;

(3) attract to this state new, large-scale businesses that are exploring opportunities to locate in other states or other countries;

(4) enable local government officials and economic development professionals to compete with other states by authorizing economic development incentives that meet or exceed incentives being offered to prospective employers by other states and to provide local officials with an effective means to attract large-scale investment;

(5) strengthen and improve the overall performance of the economy of this state;

(6) expand and enlarge the ad valorem property tax base of this state; and

(7) enhance this state's economic development efforts by providing school districts with an effective local economic development option.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.003. [2 Versions: Effective January 1, 2014] Purposes.

The purposes of this chapter are to:

(1) encourage large-scale capital investments in this state;

(2) create new, high-paying jobs in this state;

(3) attract to this state large-scale businesses that are exploring opportunities to locate in other states or other countries;

(4) enable state and local government officials and economic development professionals to compete with other states by authorizing economic development incentives that are comparable to incentives being offered to prospective employers by other states and to provide state and local

officials with an effective means to attract large-scale investment;

(5) strengthen and improve the overall performance of the economy of this state;

(6) expand and enlarge the ad valorem tax base of this state; and

(7) enhance this state's economic development efforts by providing state and local officials with an effective economic development tool.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.004. [2 Versions: Effective Until January 1, 2014] Legislative Intent.

It is the intent of the legislature in enacting this chapter that:

(1) economic development decisions should occur at the local level and be consistent with identifiable statewide economic development goals;

(2) this chapter should not be construed or interpreted to allow:

(A) property owners to pool investments to create sufficiently large investments to qualify for an ad valorem tax benefit or financial benefit provided by this chapter;

(B) an applicant for an ad valorem tax benefit or financial benefit provided by this chapter to assert that jobs will be eliminated if certain investments are not made if the assertion is not true; or

(C) a sole proprietorship, partnership, or limited liability partnership to receive an ad valorem tax benefit or financial benefit provided by this chapter; and

(3) in implementing this chapter, school districts should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) approve only those applications for an ad valorem tax benefit or financial benefit provided by this chapter that:

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

(iv) advance the economic development goals of this state as identified by the Texas Strategic Economic Development Planning Commission.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.004. [2 Versions: Effective January 1, 2014] Legislative Intent.

It is the intent of the legislature in enacting this chapter that:

(1) economic development decisions involving school district taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals;

(2) this chapter should not be construed or interpreted to allow:

(A) property owners to pool investments to create sufficiently large investments to qualify for an ad valorem tax benefit provided by this chapter;

(B) an applicant for an ad valorem tax benefit provided by this chapter to assert that jobs will be eliminated if certain investments are not made if the assertion is not true; or

(C) an entity not subject to the tax imposed by Chapter 171 to receive an ad valorem tax benefit provided by this chapter;

(3) in implementing this chapter, school districts should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) approve only those applications for an ad valorem tax benefit provided by this chapter that:

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

(iv) advance the economic development goals of this state; and

(4) in implementing this chapter, the comptroller should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) issue certificates for limitations on appraised value only for those applications for an

ad valorem tax benefit provided by this chapter that:

(i) create high-paying jobs;

(ii) provide a net benefit to the state over the long term; and

(iii) advance the economic development goals of this state.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.005. Definitions.

Unless this chapter defines a word or phrase used in this chapter, Section 1.04 or any other section of Title 1 or this title that defines the word or phrase or ascribes a meaning to the word or phrase applies to the word or phrase used in this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.006. Imposition of Impact Fee.

(a) In this section, "impact fee" means a charge or assessment imposed against a qualified property, as defined by Section 313.021, in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions for water, wastewater, or storm water services or for roads necessitated by or attributable to property that receives a limitation on appraised value under this chapter.

(b) Notwithstanding any other law, including Chapter 395, Local Government Code, a municipality or county may impose and collect from the owner of a qualified property a reasonable impact fee under this section to pay for the cost of providing improvements associated with or attributable to property that receives a limitation on appraised value under this chapter.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.007. [2 Versions: Effective Until January 1, 2014] Expiration.

Subchapters B, C, and D expire December 31, 2014.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 1, effective June 19, 2009.)

Sec. 313.007. [2 Versions: Effective January 1, 2014] Expiration.

Subchapters B and C expire December 31, 2022.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 1, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 1, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.008. [Repealed January 1, 2014] Report on Compliance with Energy-Related Agreements.

(a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report assessing the progress of each agreement entered into under this chapter utilizing data certified by agreement recipients, on each agreement entered into under this chapter involving energy-related projects, including wind generation, ethanol production, liquefied natural gas terminals, low sulfur diesel production, refinery cogeneration, and nuclear energy production. The report must state for each agreement:

(1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(2) the number of qualifying jobs each recipient created;

(3) the median wage of the new jobs each recipient created;

(4) the amount of the qualified investment each recipient committed to expend or allocate per project;

(5) the amount of the qualified investment each recipient expended or allocated per project;

(6) the market value of the qualified property of each recipient as established by the local appraiser;

(7) the limitation on appraised value for the qualified property of each recipient;

(8) the dollar amount of the ad valorem taxes that would have been imposed on the market value of the qualified property;

(9) the dollar amount of the ad valorem taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System (NAICS); and

(11) of the number of new jobs each recipient created, the number of positions created that provide health benefits for employees.

(b) The report may not include information that is made confidential by law.

(c) The comptroller may require a recipient to submit, on a form provided by the comptroller, information required to complete the report.

(Enacted by Acts 2007, 80th Leg., ch. 939 (H.B. 3693), § 17, effective September 1, 2007.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.009. [Repealed January 1, 2014] Report on Compliance with Agreements.

(a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report assessing the progress of each agreement entered into under this chapter. The report must be based on data certified to the comptroller by each recipient of a limitation on appraised value under this chapter and state for each agreement:

(1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(2) the number of qualifying jobs each recipient created;

(3) the median wage of the new jobs each recipient created;

(4) the amount of the qualified investment each recipient committed to expend or allocate per project;

(5) the amount of the qualified investment each recipient expended or allocated per project;

(6) the market value of the qualified property of each recipient as determined by the applicable chief appraiser;

(7) the limitation on appraised value for the qualified property of each recipient;

(8) the dollar amount of the taxes that would have been imposed on the market value of the qualified property if the property had not received a limitation on appraised value;

(9) the dollar amount of the taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System; and

(11) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

(b) The report may not include information that is made confidential by law.

(c) The comptroller may require a recipient to submit, on a form the comptroller provides, information required to complete the report.

(Enacted by Acts 2007, 80th Leg., ch. 1270 (H.B. 3430), § 6, effective October 1, 2007; am. Acts 2009, 81st Leg., ch. 87 (S.B. 1969), § 21.001(88), effective September 1, 2009 (renumbered from Sec. 313.008).)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.010. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 1274] Certain

Entities Ineligible.

An entity that has been issued a registration number under Section 151.359 is not eligible to receive a limitation on appraised value under this chapter.

(Enacted by Acts 2013, 83rd Leg., ch. 1274 (H.B. 1223), § 4, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1274 (H.B. 1223), § 7 provides: "The change in law made by this Act does not affect tax liability accruing before the effective date of this Act [September 1, 2013]. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes."

Sec. 313.010. [2 Versions: As added by Acts 2013, 83rd Leg., ch. 1304, effective January 1, 2014] Audit of Agreements by State Auditor.

(a) Each year, the state auditor shall review at least three major agreements, as determined by the state auditor, under this chapter to determine whether:

(1) each agreement accomplishes the purposes of this chapter as expressed in Section 313.003;

(2) each agreement complies with the intent of the legislature in enacting this chapter as expressed in Section 313.004; and

(3) the terms of each agreement were executed in compliance with the terms of this chapter.

(b) As part of the review, the state auditor shall make recommendations relating to increasing the efficiency and effectiveness of the administration of this chapter.

(Enacted by Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 2, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

SUBCHAPTER B
LIMITATION ON APPRAISED VALUE OF CERTAIN PROPERTY USED TO CREATE JOBS
[EXPIRES DECEMBER 31, 2022]

Sec. 313.021. [Expires December 31, 2022] Definitions.

In this subchapter:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting;

(C) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a nuclear electric power generation facility, including:

(i) property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and

(ii) property and systems necessary to control radioactive contamination;

(D) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

(ii) property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described by Subparagraph (i);

(E) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2010, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Section 382.003, Health and Safety Code; or

(F) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), (B), (C), (D), or (E).

(2) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1272]** "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person applies for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property:

(i) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312;

(ii) for which a sales and use tax refund is not claimed under Section 151.3186; and

(iii) except for new equipment described in Section 151.318(q) or (q-1), that is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

(2) **[2 Versions: As amended by Acts 2013, 83rd Leg., ch. 1304, effective January 1, 2014]** "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person submits a complete application for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new qualifying jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property that:

(i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building, in the newly

expanded building, or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

(3) **[2 Versions: Effective Until January 1, 2014]** "Qualifying job" means a permanent full-time job that:

(A) requires at least 1,600 hours of work a year;

(B) is not transferred from one area in this state to another area in this state;

(C) is not created to replace a previous employee;

(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(E) pays at least 110 percent of:

(i) the county average weekly wage for manufacturing jobs in the county where the job is located; or

(ii) the county average weekly wage for all jobs in the county where the job is located, if the property owner creates more than 1,000 jobs in that county.

(3) **[2 Versions: Effective January 1, 2014]** "Qualifying job" means a permanent full-time job that:

(A) requires at least 1,600 hours of work a year;

(B) is not transferred from one area in this state to another area in this state;

(C) is not created to replace a previous employee;

(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(E) pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.

(F) In determining whether a property owner has created the number of qualifying jobs required under this chapter, operations, services and other related jobs created in connection with the project, including those employed by third parties under contract, may satisfy the minimum qualifying jobs requirement for the project if the Texas Workforce Commission determines that the cumulative economic benefits to the state of these jobs is the same or greater than that associated with the minimum number of qualified jobs required to be created under this chapter. The Texas Workforce Commission may adopt rules to implement this subsection.

(4) "Qualifying time period" means:

(A) the period that begins on the date that a person's application for a limitation on appraised value under this subchapter is approved by the governing body of the school district and ends on December 31 of the second tax year that begins after that date, except as provided by Paragraph (B) or (C) of this subdivision or Section 313.027(h);

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

(5) "County average weekly wage for manufacturing jobs" means:

(A) the average weekly wage in a county for manufacturing jobs during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission; or

(B) the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the county is located during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2003,

78th Leg., ch. 1310 (H.B. 2425), § 113, effective June 20, 2003; am. Acts 2007, 80th Leg., ch. 1262 (H.B. 2994), § 2, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1109 (H.B. 469), § 6, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 2, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1272 (H.B. 1133), § 2, effective September 1, 2013; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 3, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1272 (H.B. 1133), § 3 provides: The change in law made by this Act does not affect tax liability accruing before the effective date of this Act [September 1, 2013]. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes."

Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.022. [Expires December 31, 2022] Applicability; Categorization of School Districts.

(a) This subchapter applies to each school district in this state other than a school district to which Subchapter C applies.

(b) For purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a), and the minimum amount of a limitation on appraised value under Section 313.027(b), school districts to which this subchapter applies are categorized according to the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows:

CATEGORY	TAXABLE VALUE OF PROPERTY
I	$10 billion or more
II	$1 billion or more but less than $10 billion
III	$500 million or more but less than $1 billion
IV	$100 million or more but less than $500 million
V	less than $100 million

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.023. [Expires December 31, 2022] Minimum Amounts of Qualified Investment.

For each category of school district established by Section 313.022, the minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) is as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	$100 million
II	$ 80 million
III	$ 60 million
IV	$ 40 million
V	$ 20 million

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.024. [Expires December 31, 2022] Eligible Property.

(a) **[2 Versions: Effective Until January 1, 2014]** This subchapter and Subchapters C and D apply only to property owned by an entity to which Chapter 171 applies.

(a) **[2 Versions: Effective January 1, 2014]** This subchapter and Subchapter C apply only to property owned by an entity subject to the tax imposed by Chapter 171.

(a-1) [Expired pursuant to Acts 2007, 80th Leg., ch. 1262 (H.B. 2994), § 3, effective January 1, 2008.]

(b) **[2 Versions: Effective Until January 1, 2014]** To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

(1) manufacturing;

(2) research and development;

(3) a clean coal project, as defined by Section 5.001, Water Code;

(4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code;

(5) renewable energy electric generation;

(6) electric power generation using integrated gasification combined cycle technology;

(7) nuclear electric power generation; or

(8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity.

(b) **[2 Versions: Effective January 1, 2014]** To be eligible for a limitation on appraised value under this subchapter, the entity must use the property for:

(1) manufacturing;

(2) research and development;

(3) a clean coal project, as defined by Section 5.001, Water Code;

(4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code;

(5) renewable energy electric generation;

(6) electric power generation using integrated gasification combined cycle technology;

(7) nuclear electric power generation;

(8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity; or

(9) a Texas priority project.

(b-1) [Expired pursuant to Acts 2007, 80th Leg., ch. 1262 (H.B. 2994), § 3, effective January 1, 2008.]

(c) For purposes of determining an applicant's eligibility for a limitation under this subchapter:

(1) the land on which a building or component of a building described by Section 313.021(1)(E) is located is not considered a qualified investment;

(2) property that is leased under a capitalized lease may be considered a qualified investment;

(3) property that is leased under an operating lease may not be considered a qualified investment; and

(4) property that is owned by a person other than the applicant and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

(d) **[2 Versions: Effective Until January 1, 2014]** To be eligible for a limitation on appraised value under this subchapter, at least 80 percent of all the new jobs created by the property owner must be qualifying jobs as defined by Section 313.021(3).

(d) **[2 Versions: Effective January 1, 2014]** To be eligible for a limitation on appraised value under this subchapter, the property owner must create the required number of new qualifying jobs as defined by Section 313.021(3) and the average weekly wage for all jobs created by the owner that are not qualifying jobs must exceed the county average weekly wage for all jobs in the county where the jobs are located.

(d-1) [Blank.]

(d-2) **[Effective January 1, 2014]** For purposes of determining whether a property owner has created the number of new qualifying jobs required for eligibility for a limitation on appraised value under this subchapter, the new qualifying jobs created under an agreement between the property owner and another school district may be included in the total number of new qualifying jobs created in connection with the project if the Texas Economic Development and Tourism Office determines that the projects covered by the agreements constitute a single unified project. The Texas Economic Development and Tourism Office may adopt rules to implement this subsection.

(e) In this section:

(1) "Manufacturing" means an establishment primarily engaged in activities described in sectors 31—33 of the 2007 North American Industry Classification System.

(2) "Renewable energy electric generation" means an establishment primarily engaged in activities described in category 221119 of the 1997 North American Industry Classification System.

(3) "Integrated gasification combined cycle technology" means technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas or another product produced from the gasification of coal or another carbon-based feedstock, including related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

(4) "Nuclear electric power generation" means activities described in category 221113 of the 2002 North American Industry Classification System.

(5) "Research and development" means an establishment primarily engaged in activities described in category 541710 of the 2002 North American Industry Classification System.

(6) "Computer center" means an establishment primarily engaged in providing electronic data processing and information storage.

(7) **[Effective January 1, 2014]** "Texas priority project" means a project on which the applicant has committed to expend or allocate a qualified investment of more than $1 billion.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2005, 79th Leg., ch. 1097 (H.B. 2201), § 5, effective June 18, 2005; am. Acts 2006, 79th Leg., 3rd C.S., ch. 1 (H.B.3), § 16(b), (c), effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 1262 (H.B. 2994), §§ 3, 5, effective June 15, 2007; am. Acts 2007, 80th Leg., ch. 1262 (H.B. 2994), § 4, effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 1277 (H.B. 3732), § 10, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), §§ 3, 4, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), §§ 4, 5, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the

date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.025. [Expires December 31, 2022] Application; Action on Application.

(a) **[2 Versions: Effective Until January 1, 2014]** The owner or lessee of, or the holder of another possessory interest in, any qualified property described by Section 313.021(2)(A), (B), or (C) may apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

(1) the application fee established by the governing body of the school district;

(2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section 313.021(2); and

(3) information relating to each applicable criterion listed in Section 313.026.

(a) **[2 Versions: Effective January 1, 2014]** The owner or lessee of, or the holder of another possessory interest in, any qualified property described by Section 313.021(2)(A), (B), or (C) may apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

(1) the application fee established by the governing body of the school district;

(2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section 313.021(2); and

(3) any information required by the comptroller for the purposes of Section 313.026.

(a-1) **[2 Versions: Effective Until January 1, 2014]** Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the agreement between the applicant and the school district. If an economic analysis of the proposed project is submitted to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the comptroller's Internet website. If the school district maintains a generally accessible Internet website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under Section 313.028.

(a-1) **[2 Versions: Effective January 1, 2014]** Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the proposed agreement between the applicant and the school district. If the applicant submits an economic analysis of the proposed project to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the comptroller's Internet website. If the school district maintains a generally accessible Internet website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under Section 313.028.

(b) **[2 Versions: Effective Until January 1, 2014]** The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall deliver three copies of the application to the comptroller and request that the comptroller provide an economic impact evaluation of the application to the school district. Except as provided by Subsection (b-1), the comptroller shall conduct or contract with a third person to conduct the evaluation, which shall be completed and provided to the governing body of the school district as soon as practicable. The governing body shall provide to the comptroller or third person any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified

property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the evaluation to the applicant on request. The comptroller may charge and collect a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application before the 151st day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(b) **[2 Versions: Effective January 1, 2014]** The governing body of a school district is not required to consider an application for a limitation on appraised value. If the governing body of the school district elects to consider an application, the governing body shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the investment proposed by the application. The comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d), as soon as practicable but not later than the 90th day after the date the comptroller receives the application. The governing body shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the economic impact evaluation to the applicant on request. The comptroller may charge the applicant a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application not later than the 150th day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(b-1) **[2 Versions: Effective Until January 1, 2014]** The comptroller shall indicate on one copy of the application the date the comptroller received the application and deliver that copy to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities, as required to be included in the economic impact evaluation by Section 313.026(a)(9), and submit a written report containing the agency's determination to the comptroller. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the application indicates that the comptroller received the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the comptroller. A third person contracted by the comptroller to conduct an economic impact evaluation of an application is not required to make a determination that the Texas Education Agency is required to make and report to the comptroller under this subsection.

(b-1) **[2 Versions: Effective January 1, 2014]** The comptroller shall promptly deliver a copy of the application to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities and submit a written report containing the agency's determination to the school district. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the Texas Education Agency receives the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the governing body of the school district.

(c) **[2 Versions: Effective Until January 1, 2014]** In determining whether to grant an application, the governing body of the school district is entitled to request and receive assistance from:

(1) the comptroller;

(2) the Texas Department of Economic Development;

(3) the Texas Workforce Investment Council; and

(4) the Texas Workforce Commission.

(c) **[2 Versions: Effective January 1, 2014]** In determining whether to approve an application, the governing body of the school district is entitled to request and receive assistance from:

(1) the comptroller;

(2) the Texas Economic Development and Tourism Office;

(3) the Texas Workforce Investment Council; and

(4) the Texas Workforce Commission.

(d) **[2 Versions: Effective Until January 1, 2014]** Before the 91st day after the date the comptroller receives the copy of the application, the comptroller shall submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

(d) **[2 Versions: Effective January 1, 2014]** Not later than the 90th day after the date the

comptroller receives the copy of the application, the comptroller shall issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate.

(d-1) **[2 Versions: Effective Until January 1, 2014]** The governing body of a school district may approve an application that the comptroller has recommended should be disapproved only if:

(1) the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation; and

(2) at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application.

(d-1) **[2 Versions: Effective January 1, 2014]** The governing body of a school district may not approve an application unless the comptroller submits to the governing body a certificate for a limitation on appraised value of the property.

(e) **[2 Versions: Effective Until January 1, 2014]** Before approving or disapproving an application under this subchapter that the governing body elects to consider, the governing body of the school district must make a written finding as to each criterion listed in Section 313.026. The governing body shall deliver a copy of those findings to the applicant.

(e) **[2 Versions: Effective January 1, 2014]** Before approving or disapproving an application under this subchapter that the governing body of the school district elects to consider, the governing body must make a written finding as to any criteria considered by the comptroller in conducting the economic impact evaluation under Section 313.026. The governing body shall deliver a copy of those findings to the applicant.

(f) The governing body may approve an application only if the governing body finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value of the person's qualified property, and determines that granting the application is in the best interest of the school district and this state.

(f-1) Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

(g) **[2 Versions: Effective Until January 1, 2014]** The Texas Department of Economic Development or its successor may recommend that a school district grant a person a limitation on appraised value under this chapter. In determining whether to grant an application, the governing body of the school district shall consider any recommendation made by the Texas Department of Economic Development or its successor.

(g) **[2 Versions: Effective January 1, 2014]** The Texas Economic Development and Tourism Office or its successor may recommend that a school district approve an application under this chapter. In determining whether to approve an application, the governing body of the school district shall consider any recommendation made by the Texas Economic Development and Tourism Office or its successor.

(h) After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter. The comptroller shall notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. A hearing under this subsection is a contested case hearing and shall be conducted by the State Office of Administrative Hearings in the manner provided by Section 2003.101, Government Code. The applicant has the burden of proof on each issue in the hearing. The applicant may seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(i) **[2 Versions: Effective Until January 1, 2014]** If the comptroller's determination under Subsection (h) that the property does not meet the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a recommendation to the school district as to whether the application should be approved or disapproved, and the governing body of the school district may not grant the application.

(i) **[2 Versions: Effective January 1, 2014]** If the comptroller's determination under Subsection (h) that the property does not meet the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to

submit a certificate for a limitation on appraised value of the property or a written explanation of the decision not to issue a certificate, and the governing body of the school district may not grant the application.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2003, 78th Leg., ch. 818 (S.B. 281), § 6.11, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 978 (S.B. 1771), § 7, effective September 1, 2003; am. Acts 2006, 79th Leg., 3rd C.S., ch. 1 (H.B. 3), § 16(d), effective January 1, 2008; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), § 2, effective December 31, 2007; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), §§ 3, 6, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 5, effective June 19, 2009; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 5, effective January 1, 2010; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 6, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.026. [2 Versions: Effective Until January 1, 2014] Economic Impact Evaluation.

(a) The economic impact evaluation of the application must include the following:

(1) the recommendations of the comptroller;

(2) the name of the school district;

(3) the name of the applicant;

(4) the general nature of the applicant's investment;

(5) the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999;

(6) the relative level of the applicant's investment per qualifying job to be created by the applicant;

(7) the number of qualifying jobs to be created by the applicant;

(8) the wages, salaries, and benefits to be offered by the applicant to qualifying job holders;

(9) the ability of the applicant to locate or relocate in another state or another region of this state;

(10) the impact the project will have on this state and individual local units of government, including:

(A) tax and other revenue gains, direct or indirect, that would be realized during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller; and

(B) economic effects of the project, including the impact on jobs and income, during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the comptroller;

(11) the economic condition of the region of the state at the time the person's application is being considered;

(12) the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on appraised value under this subchapter;

(13) the effect of the applicant's proposal, if approved, on the number or size of the school district's instructional facilities, as defined by Section 46.001, Education Code;

(14) the projected market value of the qualified property of the applicant as determined by the comptroller;

(15) the proposed limitation on appraised value for the qualified property of the applicant;

(16) the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property does not receive a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated;

(17) the projected dollar amount of the taxes that would be imposed on the qualified property, for each tax year of the agreement, if the property receives a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment clearly stated;

(18) the projected effect on the Foundation School Program of payments to the district for each year of the agreement;

(19) the projected future tax credits if the applicant also applies for school tax credits under Section 313.103; and

(20) the total amount of taxes projected to be lost or gained by the district over the life of the agreement computed by subtracting the projected taxes stated in Subdivision (17) from the projected taxes stated in Subdivision (16).

(b) The comptroller's recommendations shall be based on the criteria listed in Subsections (a)(5)—(20) and on any other information available to the comptroller, including information provided by the governing body of the school district under Section 313.025(b).

(c) Subsection (b) does not apply to the comptroller's recommendations made before December 31, 2007. This subsection expires December 31, 2008.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), § 4, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 6, effective June 19, 2009.)

Sec. 313.026. [2 Versions: Effective January 1, 2014, expires December 31, 2022] Economic Impact Evaluation.

(a) The economic impact evaluation of the application must include any information the comptroller determines is necessary or helpful to:

(1) the governing body of the school district in determining whether to approve the application under Section 313.025; or

(2) the comptroller in determining whether to issue a certificate for a limitation on appraised value of the property under Section 313.025.

(b) Except as provided by Subsections (c) and (d), the comptroller's determination whether to issue a certificate for a limitation on appraised value under this chapter for property described in the application shall be based on the economic impact evaluation described by Subsection (a) and on any other information available to the comptroller, including information provided by the governing body of the school district.

(c) The comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that:

(1) the project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement; and

(2) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.

(d) The comptroller shall state in writing the basis for the determinations made under Subsections (c)(1) and (2).

(e) The applicant may submit information to the comptroller that would provide a basis for an affirmative determination under Subsection (c)(2).

(f) Notwithstanding Subsections (c) and (d), if the comptroller makes a qualitative determination that other considerations associated with the project result in a net positive benefit to the state, the comptroller may issue the certificate.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), § 4, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 6, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 7, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.0265. [Expires December 31, 2022] Disclosure of Appraised Value Limitation Information.

(a) The comptroller shall post on the comptroller's Internet website each document or item of information the comptroller designates as substantive before the 15th day after the date the document or item of information was received or created. Each document or item of information must continue to be posted until the appraised value limitation expires.

(b) **[2 Versions: Effective Until January 1, 2014]** The comptroller shall designate the following as substantive:

(1) each application requesting a limitation on appraised value;

(2) the economic impact evaluation made in connection with the application; and

(3) each application requesting school tax credits under Section 313.103.

(b) **[2 Versions: Effective January 1, 2014]** The comptroller shall designate the following as substantive:

(1) each application requesting a limitation on appraised value; and

(2) the economic impact evaluation made in connection with the application.

(c) If a school district maintains a generally accessible Internet website, the district shall maintain a link on its Internet website to the area of the comptroller's Internet website where information on each of the district's agreements to limit appraised value is maintained.

(Enacted by Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 7, effective January 1, 2010; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 8, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.027. [Expires December 31, 2022] Limitation on Appraised Value; Agreement.

(a) **[2 Versions: Effective Until January 1, 2014]** If the person's application is approved by the governing body of the school district, for each of the first eight tax years that begin after the applicable qualifying time period, the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of:

(1) the market value of the property; or

(2) subject to Subsection (b), the amount agreed to by the governing body of the school district.

(a) **[2 Versions: Effective January 1, 2014]** If the person's application is approved by the governing body of the school district, the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of:

(1) the market value of the property; or

(2) subject to Subsection (b), the amount agreed to by the governing body of the school district.

(a-1) **[Effective January 1, 2014]** The agreement must:

(1) provide that the limitation under Subsection (a) applies for a period of 10 years; and

(2) specify the beginning date of the limitation, which must be January 1 of the first tax year that begins after:

(A) the application date;

(B) the qualifying time period; or

(C) the date commercial operations begin at the site of the project.

(b) The amount agreed to by the governing body of a school district under Subsection (a)(2) must be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs:

CATEGORY	MINIMUM AMOUNT OF LIMITATION
I	$100 million
II	$ 80 million
III	$ 60 million
IV	$ 40 million
V	$ 20 million

(c) The limitation amounts listed in Subsection (b) are minimum amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

(d) The governing body of the school district and the property owner shall enter into a written agreement for the implementation of the limitation on appraised value under this subchapter on the owner's qualified property.

(e) The agreement must describe with specificity the qualified investment that the person will make on or in connection with the person's qualified property that is subject to the limitation on appraised value under this subchapter. Other property of the person that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the limitation.

(f) **[2 Versions: Effective Until January 1, 2014]** In addition, the agreement:

(1) must incorporate each relevant provision of this subchapter and, to the extent necessary, include provisions for the protection of future school district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the school district;

(2) may provide that the property owner will protect the school district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project;

(3) must require the property owner to maintain a viable presence in the school district for at least three years after the date the limitation on appraised value of the owner's property expires;

(4) must provide for the termination of the agreement, the recapture of ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to comply with the terms of the agreement, and payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue;

(5) may specify any conditions the occurrence of which will require the district and the property owner to renegotiate all or any part of the agreement; and

(6) must specify the ad valorem tax years covered by the agreement.

(f) **[2 Versions: Effective January 1, 2014]** In addition, the agreement:

(1) must incorporate each relevant provision of this subchapter and, to the extent necessary, include provisions for the protection of future school district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the school district;

(2) may provide that the property owner will protect the school district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project;

(3) must require the property owner to maintain a viable presence in the school district for at least five years after the date the limitation on appraised value of the owner's property expires;

(4) must provide for the termination of the agreement, the recapture of ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to comply with the terms of the agreement, and payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue;

(5) may specify any conditions the occurrence of which will require the district and the property owner to renegotiate all or any part of the agreement;

(6) must specify the ad valorem tax years covered by the agreement; and

(7) must be in a form approved by the comptroller.

(g) When appraising a person's qualified property subject to a limitation on appraised value under this section, the chief appraiser shall determine the market value of the property and include both the market value and the appropriate value under Subsection (a) in the appraisal records.

(h) **[2 Versions: Effective Until January 1, 2014]** The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. This subsection may not be construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under Section 313.021(4).

(h) **[2 Versions: Effective January 1, 2014]** The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. The agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the fourth tax year that begins after the date the application is approved except that if the agreement is one of a series of agreements related to the same project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved. This subsection may not be construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under Section 313.021(4).

(i) **[2 Versions: Effective Until January 1, 2014]** A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district in an amount that exceeds an amount equal to $100 per student per year in average daily attendance, as defined by Section 42.005, Education Code, or for a period that exceeds the period beginning with the period described by Section 313.021(4) and ending with the period described by Section 313.104(2)(B) of

this code. This limit does not apply to amounts described by Subsection (f)(1) or (2) of this section.

(i) **[2 Versions: Effective January 1, 2014]** A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district or any other entity on behalf of a school district in an amount that exceeds an amount equal to the greater of $100 per student per year in average daily attendance, as defined by Section 42.005, Education Code, or $50,000 per year, or for a period that exceeds the period beginning with the period described by Section 313.021(4) and ending December 31 of the third tax year after the date the person's eligibility for a limitation under this chapter expires. This limit does not apply to amounts described by Subsection (f)(1) or (2).

(j) **[Effective January 1, 2014]** An agreement under this chapter must disclose any consideration promised in conjunction with the application and the limitation.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 8, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 9, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.0275. [Expires December 31, 2022] Recapture of Ad Valorem Tax Revenue Lost.

(a) **[2 Versions: Effective Until January 1, 2014]** Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this subchapter must make the minimum amount of qualified investment during the qualifying time period and create the required number of qualifying jobs during each year of the agreement.

(a) **[2 Versions: Effective January 1, 2014]** Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this subchapter must make the minimum amount of qualified investment during the qualifying time period.

(b) If in any tax year a property owner fails to comply with Subsection (a), the property owner is liable to this state for a penalty equal to the amount computed by subtracting from the market value of the property for that tax year the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district for that tax year.

(c) A penalty imposed under Subsection (b) becomes delinquent if not paid on or before February 1 of the following tax year. Section 33.01 applies to the delinquent penalty in the manner that section applies to delinquent taxes.

(d) **[Effective January 1, 2014]** In the event of a casualty loss that prevents a person from complying with Subsection (a), the person may request and the comptroller may grant a waiver of the penalty imposed under Subsection (b).

(Enacted by Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 9, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 10, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.0276. [Effective January 1, 2014] Penalty for Failure to Comply with Job-Creation Requirements.

(a) The comptroller shall conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the comptroller makes an adverse determination in the review, the comptroller shall notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination.

(b) If a person who receives an adverse determination fails to remedy the determination following

notification of the determination and the comptroller makes an adverse determination with respect to the person's compliance in the following year, the person must submit to the comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later than December 31 of the year in which the determination is made.

(c) If a person who receives an adverse determination under Subsection (b) fails to comply with that subsection following notification of the determination and receives an adverse determination in the following year, the comptroller shall impose a penalty on the person. The penalty is in an amount equal to the amount computed by:

(1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created; and

(2) multiplying the amount computed under Subdivision (1) by the average annual wage for all jobs in the county during the most recent four quarters for which data is available.

(d) Notwithstanding Subsection (c), if a person receives an adverse determination and the comptroller has previously imposed a penalty on the person under this section one or more times, the comptroller shall impose a penalty on the person in an amount equal to the amount computed by multiplying the amount computed under Subsection (c)(1) by an amount equal to twice the amount computed under Subsection (c)(2).

(e) Notwithstanding Subsections (c) and (d), a penalty imposed under this section may not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.

(f) A job created by a person that is not a qualifying job because the job does not meet a numerical requirement of Section 313.021(3)(A), (D), or (E) is considered for purposes of this section to be a nonqualifying job only if the job fails to meet the numerical requirement by at least 10 percent.

(g) An adverse determination under this section is a deficiency determination under Section 111.008. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce, and the determination is subject to the payment and redetermination requirements of Sections 111.0081 and 111.009.

(h) A redetermination under Section 111.009 of an adverse determination under this section is a contested case as defined by Section 2001.003, Government Code.

(i) If a person on whom a penalty is imposed under this section contends that the amount of the penalty is unlawful or that the comptroller may not legally demand or collect the penalty, the person may challenge the determination of the comptroller under Subchapters A and B, Chapter 112.

(j) If the comptroller imposes a penalty on a person under this section three times, the comptroller may rescind the agreement between the person and the school district under this chapter.

(k) A person may contest a determination by the comptroller to rescind an agreement between the person and a school district under this chapter pursuant to Subsection (j) by filing suit against the comptroller and the attorney general. The district courts of Travis County have exclusive, original jurisdiction of a suit brought under this subsection. This subsection prevails over a provision of Chapter 25, Government Code, to the extent of any conflict.

(*l*) If a person files suit under Subsection (k) and the comptroller's determination to rescind the agreement is upheld on appeal, the person shall pay to the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections 111.060 and 111.061.

(m) The comptroller shall deposit a penalty collected under this section, including any interest and penalty applicable to the penalty, to the credit of the foundation school fund.

(Enacted by Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 11, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.028. [Expires December 31, 2022] Certain Business Information Confidential.

Information provided to a school district in connection with an application for a limitation on appraised value under this subchapter that describes the specific processes or business activities to be

conducted or the specific tangible personal property to be located on real property covered by the application shall be segregated in the application from other information in the application and is confidential and not subject to public disclosure unless the governing body of the school district approves the application. Other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under this chapter, such as the nature and amount of the projected investment, employment, wages, and benefits, may not be considered confidential business information if the governing body of the school district agrees to consider the application. Information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 10, effective June 19, 2009.)

Sec. 313.029. Tax Rate Limitation [Repealed].

Repealed by Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 14, effective June 19, 2009.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.030. [Expires December 31, 2022] Property Not Eligible for Tax Abatement.

Property subject to a limitation on appraised value in a tax year under this subchapter is not eligible for tax abatement by a school district under Chapter 312 in that tax year.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.031. [2 Versions: Effective Until January 1, 2014] Rules and Forms; Fees.

(a) The comptroller shall:

(1) adopt rules and forms necessary for the implementation and administration of this chapter, including rules for determining whether a property owner's property qualifies as a qualified investment under Section 313.021(1); and

(2) provide without charge one copy of the rules and forms to any school district and to any person who states that the person intends to apply for a limitation on appraised value under this subchapter or a tax credit under Subchapter D.

(b) The governing body of a school district by official action shall establish reasonable nonrefundable application fees to be paid by property owners who apply to the district for a limitation on the appraised value of the person's property under this subchapter. The amount of an application fee must be reasonable and may not exceed the estimated cost to the district of processing and acting on an application, including the cost of the economic impact evaluation required by Sections 313.025 and 313.026.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.031. [2 Versions: Effective January 1, 2014, expires December 31, 2022] Rules and Forms; Fees.

(a) The comptroller shall:

(1) adopt rules and forms necessary for the implementation and administration of this chapter, including rules for determining whether a property owner's property qualifies as a qualified investment under Section 313.021(1); and

(2) provide without charge one copy of the rules and forms to any school district and to any person who states that the person intends to apply for a limitation on appraised value under this subchapter.

(b) The governing body of a school district by official action shall establish reasonable nonrefundable application fees to be paid by property owners who apply to the district for a limitation on the appraised value of the person's property under this subchapter. The amount of an application fee must be reasonable and may not exceed the estimated cost to the district of processing and acting on an application, including any cost to the school district associated with the economic impact evaluation required by Section 313.025.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 12, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.032. [Expires December 31, 2022] Report on Compliance with Agreements.

(a) **[2 Versions: Effective Until January 1, 2014]** Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report assessing the progress of each agreement made under this chapter. The report must be based on data certified to the comptroller by each recipient of a limitation on appraised value under this subchapter and state for each agreement:

(1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(2) the number of qualifying jobs each recipient created;

(3) the median wage of the new jobs each recipient created;

(4) the amount of the qualified investment each recipient committed to spend or allocate for each project;

(5) the amount of the qualified investment each recipient spent or allocated for each project;

(6) the market value of the qualified property of each recipient as determined by the applicable chief appraiser;

(7) the limitation on appraised value for the qualified property of each recipient;

(8) the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value;

(9) the dollar amount of the taxes imposed on the qualified property;

(10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System; and

(11) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

(a) **[2 Versions: Effective January 1, 2014]** Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this chapter that includes:

(1) an assessment of the following with regard to the agreements entered into under this chapter, considered in the aggregate:

(A) the total number of jobs created, direct and otherwise, in this state;

(B) the total effect on personal income, direct and otherwise, in this state;

(C) the total amount of investment in this state;

(D) the total taxable value of property on the tax rolls in this state, including property for which the limitation period has expired;

(E) the total value of property not on the tax rolls in this state as a result of agreements entered into under this chapter; and

(F) the total fiscal effect on the state and local governments; and

(2) an assessment of the progress of each agreement made under this chapter that states for each agreement:

(A) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(B) the number of qualifying jobs each recipient created;

(C) the total amount of wages and the median wage of the new qualifying jobs each recipient created;

(D) the amount of the qualified investment each recipient committed to spend or allocate for each project;

(E) the amount of the qualified investment each recipient spent or allocated for each project;

(F) the market value of the qualified property of each recipient as determined by the applicable chief appraiser, including property that is no longer eligible for a limitation on appraised value under the agreement;

(G) the limitation on appraised value for the qualified property of each recipient;

(H) the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value; and

(I) the dollar amount of the taxes imposed on the qualified property.

(b) The report may not include information that is confidential by law.

(b-1) **[Effective January 1, 2014]** In preparing the portion of the report described by Subsection (a)(1), the comptroller may use standard economic estimation techniques, including economic multipliers.

(c) **[2 Versions: Effective Until January 1, 2014]** The comptroller may require a recipient to submit, on a form the comptroller provides, information required to complete the report.

(c) **[2 Versions: Effective January 1, 2014]** The portion of the report described by Subsection (a)(2) must be based on data certified to the comptroller by each recipient or former recipient of a limitation on appraised value under this chapter.

(d) **[Effective January 1, 2014]** The comptroller may require a recipient or former recipient of a limitation on appraised value under this chapter to submit, on a form the comptroller provides, information required to complete the report.

(Enacted by Acts 2007, 80th Leg., ch. 1262 (H.B. 2994), § 6, effective June 15, 2007; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 13, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.033. [Effective January 1, 2014, expires December 31, 2022] Report on Compliance with Job-Creation Requirements.

Each recipient of a limitation on appraised value under this chapter shall submit to the comptroller an annual report on a form provided by the comptroller that provides information sufficient to document the number of qualifying jobs created.

(Enacted by Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 14, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

SUBCHAPTER C
[EFFECTIVE UNTIL JANUARY 1, 2014] LIMITATION ON APPRAISED VALUE OF PROPERTY IN CERTAIN RURAL SCHOOL DISTRICTS
[EFFECTIVE JANUARY 1, 2014, EXPIRES DECEMBER 31, 2022] LIMITATION ON APPRAISED VALUE OF PROPERTY IN STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

Sec. 313.051. [2 Versions: Effective Until January 1, 2014] Applicability.

(a) This subchapter applies only to a school district that has territory in:

(1) an area that qualified as a strategic investment area under Subchapter O, Chapter 171, immediately before that subchapter expired; or

(2) a county:

(A) that has a population of less than 50,000; and

(B) in which, from 1990 to 2000, according to the federal decennial census, the population:

(i) remained the same;

(ii) decreased; or

(iii) increased, but at a rate of not more than three percent per annum.

(a-1) Notwithstanding Subsection (a), if on January 1, 2002, this subchapter applied to a school district in whose territory is located a federal nuclear facility, this subchapter continues to apply to the school district regardless of whether the school district ceased or ceases to be described by Subsection (a) after that date.

(b) The governing body of a school district to which this subchapter applies may enter into an agreement in the same manner as a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054. Except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create only at least 10 new jobs on the owner's qualified property. At least 80 percent of all the new jobs created must be qualifying jobs as defined by Section 313.021(3), except that, for a school district described by Subsection (a)(2), each qualifying job

must pay at least 110 percent of the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the district is located.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2006, 79th Leg. 3rd C.S., ch. 1 (H.B. 3), § 16(e), effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 11, effective June 19, 2009.)

Sec. 313.051. [2 Versions: Effective January 1, 2014, expires December 31, 2022] Applicability.

(a) In this section, "strategic investment area" means an area the comptroller determines under Subsection (a-3) is:

(1) a county within this state with unemployment above the state average and per capita income below the state average;

(2) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community; or

(3) a defense economic readjustment zone designated under Chapter 2310, Government Code.

(a-1) This subchapter applies only to a school district that has territory in:

(1) an area that qualifies as a strategic investment area; or

(2) a county:

(A) that has a population of less than 50,000; and

(B) in which, from 2000 to 2010, according to the federal decennial census, the population:

(i) remained the same;

(ii) decreased; or

(iii) increased, but at a rate of not more than the average rate of increase in the state during that period.

(a-2) Notwithstanding Subsection (a-1), if on January 1, 2002, this subchapter applied to a school district in whose territory is located a federal nuclear facility, this subchapter continues to apply to the school district regardless of whether the school district ceased or ceases to be described by Subsection (a-1) after that date.

(a-3) Not later than September 1 of each year, the comptroller shall determine areas that qualify as a strategic investment area using the most recently completed full calendar year data available on that date and, not later than October 1, shall publish a list and map of the designated areas. A determination under this subsection is effective for the following tax year for purposes of this subchapter.

(b) The governing body of a school district to which this subchapter applies may enter into an agreement in the same manner as a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054. Except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create at least 10 new qualifying jobs as defined by Section 313.021(3) on the owner's qualified property.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2006, 79th Leg. 3rd C.S., ch. 1 (H.B. 3), § 16(e), effective January 1, 2008; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 11, effective June 19, 2009; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 16, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.052. [Expires December 31, 2022] Categorization of School Districts.

For purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) and the minimum amount of a limitation on appraised value under this subchapter, school districts to which this subchapter applies are categorized according to the taxable value of industrial property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows:

CATEGORY	TAXABLE VALUE OF INDUSTRIAL PROPERTY
I	$200 million or more
II	$90 million or more but less than $200 million
III	$1 million or more but less than $90 million
IV	$100,000 or more but less than $1 million
V	less than $100,000

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.053. [Expires December 31, 2022] Minimum Amounts of Qualified Investment.

For each category of school district established by Section 313.052, the minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) is as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	$30 million
II	$20 million
III	$10 million
IV	$ 5 million
V	$ 1 million

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

Sec. 313.054. [Expires December 31, 2022] Limitation on Appraised Value.

(a) **[2 Versions: Effective Until January 1, 2014]** For a school district to which this subchapter applies, the amount agreed to by the governing body of the district under Section 313.027(a)(2) must be an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:

CATEGORY	MINIMUM AMOUNT OF LIMITATION
I	$30 million
II	$20 million
III	$10 million
IV	$ 5 million
V	$ 1 million

(a) **[2 Versions: Effective January 1, 2014]** For a school district to which this subchapter applies, the amount agreed to by the governing body of the district under Section 313.027(a)(2) must be an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:

CATEGORY	MINIMUM AMOUNT OF LIMITATION
I	$30 million
II	$25 million
III	$20 million
IV	$15 million
V	$10 million

(b) The limitation amounts listed in Subsection (a) are minimum amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 17, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

SUBCHAPTER D
SCHOOL TAX CREDITS
[REPEALED JANUARY 1, 2014]

Sec. 313.101. [Repealed January 1, 2014] Definition.

In this subchapter, "qualifying time period" has the meaning assigned by Section 313.021.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.102. [Repealed January 1, 2014] Eligibility for Tax Credit; Amount of Credit.

(a) In addition to the limitation on the appraised value of the person's qualified property under Subchapter B or C, a person is entitled to a tax credit from the school district that approved the limitation in an amount equal to the amount of ad valorem taxes paid to that school district that were imposed on the portion of the appraised value of the qualified property that exceeds the amount of the limitation

agreed to by the governing body of the school district under Section 313.027(a)(2) in each year in the applicable qualifying time period.

(b) If the person relocates the person's business outside the school district, the person is not entitled to the credit in or after the year in which the relocation occurs.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.103. [Repealed January 1, 2014] Application.

(a) An application for a tax credit under this subchapter must be made to the governing body of the school district to which the ad valorem taxes were paid. The application must be:

(1) made on the form prescribed for that purpose by the comptroller and verified by the applicant; and

(2) accompanied by:

(A) a tax receipt from the collector of taxes for the school district showing full payment of school district ad valorem taxes on the qualified property for the applicable qualifying time period; and

(B) any other document or information that the comptroller or the governing body considers necessary for a determination of the applicant's eligibility for the credit or the amount of the credit.

(b) An application for a tax credit under this subchapter or any information provided by the school district to the Texas Education Agency under Section 42.2515, Education Code, is not confidential.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 12, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.104. [Repealed January 1, 2014] Action on Application; Grant of Credit.

Before granting the application for a tax credit, the governing body of the school district shall:

(1) determine the person's eligibility for a tax credit under this subchapter; and

(2) if the person's application is approved, by order or resolution direct the collector of taxes for the school district:

(A) in the second and subsequent six tax years that begin after the date the application is approved, to credit against the taxes imposed on the qualified property by the district in that year an amount equal to one-seventh of the total amount of tax credit to which the person is entitled under Section 313.102, except that the amount of a credit granted in any of those tax years may not exceed 50 percent of the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year; and

(B) in the first three tax years that begin on or after the date the person's eligibility for the limitation under Subchapter B or C expires, to credit against the taxes imposed on the qualified property by the district an amount equal to the portion of the total amount of tax credit to which the person is entitled under Section 313.102 that was not credited against the person's taxes under Paragraph (A) in a tax year covered by Paragraph (A), except that the amount of a tax credit granted under this paragraph in any tax year may not exceed the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2007, 80th Leg., ch. 864 (H.B. 1470), § 5, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 1186 (H.B. 3676), § 12, effective June 19, 2009.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Sec. 313.105. [Repealed January 1, 2014] Remedy for Erroneous Credit.

(a) If the comptroller and the governing body of a school district determine that a person who received a tax credit under this subchapter for any reason was not entitled to the credit received or was entitled to a lesser amount of credit than the amount of the credit received, an additional tax is imposed on the qualified property equal to the full credit or the amount of the credit to which the person was not entitled, as applicable, plus interest at an annual rate of seven percent calculated from the date the credit was issued.

(b) A tax lien attaches to the qualified property in favor of the school district to secure payment by the person of the additional tax and interest imposed by this section and any penalties incurred. A person delinquent in the payment of an additional tax under this section may not submit a subsequent application or receive a tax credit under this subchapter in a subsequent year.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

SUBCHAPTER E [EFFECTIVE UNTIL JANUARY 1, 2014] AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES [EFFECTIVE JANUARY 1, 2014] AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES OR IS REPEALED

Sec. 313.171. Saving Provisions.

(a) A limitation on appraised value approved under Subchapter B or C before the expiration of that subchapter continues in effect according to that subchapter as that subchapter existed immediately before its expiration, and that law is continued in effect for purposes of the limitation on appraised value.

(b) **[2 Versions: Effective Until January 1, 2014]** The expiration of Subchapter D does not affect a property owner's entitlement to a tax credit granted under Subchapter D if the property owner qualified for the tax credit before the expiration of Subchapter D.

(b) **[2 Versions: Effective January 1, 2014]** The repeal of Subchapter D does not affect a property owner's entitlement to a tax credit granted under Subchapter D if the property owner qualified for the tax credit before the repeal of Subchapter D.

(Enacted by Acts 2001, 77th Leg., ch. 1505 (H.B. 1200), § 1, effective January 1, 2002; am. Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 19, effective January 1, 2014.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1304 (H.B. 3390), § 23 provides:

"(a) Except as provided by Subsection (b) of this section, Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act [January 1, 2014]. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) An agreement entered into on or after January 1, 2013, pursuant to an application filed under Chapter 313, Tax Code, before the effective date of this Act may condition eligibility for a limitation on appraised value under Subchapter B or C of that chapter, as applicable, on compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable."

Transportation Code

TITLE 7
VEHICLES AND TRAFFIC

SUBTITLE B
DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS

CHAPTER 521
DRIVER'S LICENSES AND CERTIFICATES

Subchapter B. General License Requirements

SUBCHAPTER B
GENERAL LICENSE REQUIREMENTS

Sec. 521.022. Restrictions on Operators of Certain School Buses.

(a) A person under 18 years of age may not operate a school bus for the transportation of students.

(b) A person who is 18 years of age or older may not operate a school bus unless the person holds an appropriate class of driver's license for the vehicle being operated.

(c) A person may not operate a school bus for the transportation of students unless the person meets the mental and physical capability requirements the department establishes by rule and has passed an examination approved by the department to determine the person's mental and physical capabilities to operate a school bus safely. A physician, advanced practice nurse, or physician assistant may conduct the examination. An ophthalmologist, optometrist, or therapeutic optometrist may conduct the part of the examination relating to the person's vision. Each school bus operator must pass the examination annually.

(d) A person may not operate a school bus for the transportation of students unless the person's driving record is acceptable according to minimum standards adopted by the department. A check of the person's driving record shall be made with the department annually. The minimum standards adopted by the department must provide that a person's driving record is not acceptable if the person has been convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, within the 10-year period preceding the date of the check of the person's driving record.

(e) A person may not operate a school bus for the transportation of students unless the person is certified in school bus safety education or has enrolled in a school bus safety education class under provisions adopted by the department. Effective on the date and under provisions determined by the department, a school bus operator must hold a card that states that the operator is enrolled in or has completed a driver training course approved by the department in school bus safety education. The card is valid for three years.

(f) Before a person is employed to operate a school bus to transport students, the employer must obtain a criminal history record check. A school district, school, service center, or shared services arrangement, or a commercial transportation company under contract with a school district, that obtains information that a person has been convicted of a felony or misdemeanor involving moral turpitude may not employ the person to drive a school bus on which students are transported unless the employment is approved by the board of trustees of the school district or the board's designee.

(g) This section does not affect the right of an otherwise qualified person with a hearing disability to be licensed, certified, and employed as a bus operator for vehicles used to transport hearing-impaired students.

(h) This section does not apply to the operation of a vehicle owned by a public institution of higher education to transport students of a school district that operates within that institution if:

(1) the person operating the vehicle is approved by the institution to operate the vehicle; and

(2) the transportation is for a special event, including a field trip.

(i) For purposes of this section, "school bus" includes a school activity bus as defined by Section 541.201.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.73(a), (b), effec-

tive September 1, 1997; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 7, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 663 (H.B. 385), § 3, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 786 (H.B. 1409), § 1, effective June 18, 1999; am. Acts 2007, 80th Leg., ch. 923 (H.B. 3190), § 1, effective September 1, 2007.)

SUBTITLE C
RULES OF THE ROAD

CHAPTER 541
DEFINITIONS

Subchapter A. Persons and Governmental Authorities

SUBCHAPTER A
PERSONS AND GOVERNMENTAL AUTHORITIES

Sec. 541.001. Persons.

In this subtitle:

(1) "Operator" means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.

(2) "Owner" means, as used in reference to a vehicle, a person who has a property interest in or title to a vehicle. The term:

(A) includes a person entitled to use and possess a vehicle subject to a security interest; and

(B) excludes a lienholder and a lessee whose lease is not intended as security.

(3) "Pedestrian" means a person on foot.

(4) "Person" means an individual, firm, partnership, association, or corporation.

(5) "School crossing guard" means a responsible person who is at least 18 years of age and is designated by a local authority to direct traffic in a school crossing zone for the protection of children going to or leaving a school.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.103, effective September 1, 1997.)

Sec. 541.002. Governmental Authorities.

In this subtitle:

(1) "Department" means the Department of Public Safety acting directly or through its authorized officers and agents.

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

(3) "Local authority" means:

(A) a county, municipality, or other local entity authorized to enact traffic laws under the laws of this state; or

(B) a school district created under the laws of this state only when it is designating school crossing guards for schools operated by the district.

(4) "Police officer" means an officer authorized to direct traffic or arrest persons who violate traffic regulations.

(5) "State" has the meaning assigned by Section 311.005, Government Code, and includes a province of Canada.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

SUBCHAPTER C
VEHICLES, RAIL TRANSPORTATION, AND EQUIPMENT

Sec. 541.201. Vehicles.

In this subtitle:

(1) **[4 Versions: As amended by Acts 2013, 83rd Leg., ch. 17]** "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Department of State Health Services;

(C) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(D) a vehicle that has been designated by the department under Section 546.0065;

(E) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(F) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emer-

gency Services Board of the State Firemen's and Fire Marshals' Association of Texas;

(G) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs; or

(H) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity.

(1) **[4 Versions: As amended by Acts 2013, 83rd Leg., ch. 254]** "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Department of State Health Services;

(C) an emergency medical services vehicle:

(i) authorized under an emergency medical services provider license issued by the Department of State Health Services under Chapter 773, Health and Safety Code; and

(ii) operating under a contract with an emergency services district that requires the emergency medical services provider to respond to emergency calls with the vehicle;

(D) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(E) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(F) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas;

(G) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs; or

(H) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity.

(1) **[4 Versions: As amended by Acts 2013, 83rd Leg., ch. 275]** "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Department of State Health Services;

(C) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(D) a county-owned or county-leased emergency management vehicle that has been designated or authorized by the commissioners court;

(E) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(F) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas;

(G) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs; or

(H) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity.

(1) **[4 Versions: As amended by Acts 2013, 83rd Leg., ch. 630]** "Authorized emergency vehicle" means:

(A) a fire department or police vehicle;

(B) a public or private ambulance operated by a person who has been issued a license by the Department of State Health Services;

(C) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

(D) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

(E) an industrial emergency response vehicle, including an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas;

(F) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs;

(G) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity; or

(H) a private vehicle of an employee or volunteer of a county emergency management division in a county with a population of more than 46,500 and less than 48,000 that is designated as an authorized emergency vehicle by the commissioners court of that county.

(2) "Bicycle" means a device that a person may ride and that is propelled by human power and has two tandem wheels at least one of which is more than 14 inches in diameter.

(3) "Bus" means:

(A) a motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator; or

(B) a motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

(4) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement to draw an implement of husbandry, including a plow or a mowing machine.

(5) "House trailer" means a trailer or semitrailer, other than a towable recreational vehicle, that:

(A) is transportable on a highway in one or more sections;

(B) is less than 40 feet in length, excluding tow bar, while in the traveling mode;

(C) is built on a permanent chassis;

(D) is designed to be used as a dwelling or for commercial purposes if connected to required utilities; and

(E) includes plumbing, heating, air-conditioning, and electrical systems.

(6) "Implement of husbandry" means a vehicle, other than a passenger car or truck, that is designed and adapted for use as a farm implement, machinery, or tool for tilling the soil.

(7) "Light truck" means a truck, including a pickup truck, panel delivery truck, or carryall truck, that has a manufacturer's rated carrying capacity of 2,000 pounds or less.

(8) "Moped" means a motor-driven cycle that cannot attain a speed in one mile of more than 30 miles per hour and the engine of which:

(A) cannot produce more than two-brake horsepower; and

(B) if an internal combustion engine, has a piston displacement of 50 cubic centimeters or less and connects to a power drive system that does not require the operator to shift gears.

(9) "Motorcycle" means a motor vehicle, other than a tractor, that is equipped with a rider's saddle and designed to have when propelled not more than three wheels on the ground.

(10) "Motor-driven cycle" means a motorcycle equipped with a motor that has an engine piston displacement of 250 cubic centimeters or less. The term does not include an electric bicycle.

(11) "Motor vehicle" means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. The term does not include an electric bicycle or an electric personal assistive mobility device, as defined by Section 551.201.

(11-a) "Multifunction school activity bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture other than the standards requiring the bus to display alternately flashing red lights and to be equipped with movable stop arms, and that is used to transport preprimary, primary, or secondary students on a school-related activity trip other than on routes to and from school. The term does not include a school bus, a school activity bus, a school-chartered bus, or a bus operated by a mass transit authority.

(12) "Passenger car" means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator.

(13) "Pole trailer" means a vehicle without motive power:

(A) designed to be drawn by another vehicle and secured to the other vehicle by pole, reach, boom, or other security device; and

(B) ordinarily used to transport a long or irregularly shaped load, including poles, pipes, or structural members, generally capable of sustaining themselves as beams between the supporting connections.

(13-a) "Police vehicle" means a vehicle used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes that:

(A) is owned or leased by a governmental entity;

(B) is owned or leased by the police department of a private institution of higher education that commissions peace officers under Section 51.212, Education Code; or

(C) is:

(i) a private vehicle owned or leased by the peace officer; and

(ii) approved for use for law enforcement purposes by the head of the law enforcement agency that employs the peace officer, or by that person's designee, provided that use of

the private vehicle must, if applicable, comply with any rule adopted by the commissioners court of a county under Section 170.001, Local Government Code, and that the private vehicle may not be considered an authorized emergency vehicle for exemption purposes under Section 228.054, 284.070, 366.178, or 370.177, Transportation Code, unless the vehicle is marked.

(14) "Road tractor" means a motor vehicle designed and used to draw another vehicle but not constructed to carry a load independently or a part of the weight of the other vehicle or its load.

(15) "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a school district, county school, open-enrollment charter school, regional education service center, or shared services arrangement and that is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, a school bus, or a multifunction school activity bus.

(16) "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport pre-primary, primary, or secondary students on a route to or from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.

(17) "Semitrailer" means a vehicle with or without motive power, other than a pole trailer:

(A) designed to be drawn by a motor vehicle and to transport persons or property; and

(B) constructed so that part of the vehicle's weight and load rests on or is carried by another vehicle.

(18) "Special mobile equipment" means a vehicle that is not designed or used primarily to transport persons or property and that is only incidentally operated on a highway. The term:

(A) includes ditchdigging apparatus, well boring apparatus, and road construction and maintenance machinery, including an asphalt spreader, bituminous mixer, bucket loader, tractor other than a truck tractor, ditcher, levelling grader, finishing machine, motor grader, road roller, scarifier, earth-moving carryall and scraper, power shovel or dragline, or self-propelled crane and earth-moving equipment; and

(B) excludes a vehicle that is designed to transport persons or property and that has machinery attached, including a house trailer, dump truck, truck-mounted transit mixer, crane, and shovel.

(19) "Towable recreational vehicle" means a nonmotorized vehicle that:

(A) is designed:

(i) to be towable by a motor vehicle; and

(ii) for temporary human habitation for uses including recreational camping or seasonal use;

(B) is permanently built on a single chassis;

(C) may contain one or more life-support systems; and

(D) may be used permanently or temporarily for advertising, selling, displaying, or promoting merchandise or services, but is not used for transporting property for hire or for distribution by a private carrier.

(20) "Trailer" means a vehicle, other than a pole trailer, with or without motive power:

(A) designed to be drawn by a motor vehicle and to transport persons or property; and

(B) constructed so that no part of the vehicle's weight and load rests on the motor vehicle.

(21) "Truck" means a motor vehicle designed, used, or maintained primarily to transport property.

(22) "Truck tractor" means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load.

(23) "Vehicle" means a device that can be used to transport or draw persons or property on a highway. The term does not include:

(A) a device exclusively used on stationary rails or tracks; or

(B) manufactured housing as that term is defined by Chapter 1201, Occupations Code.

(24) "Electric bicycle" means a bicycle that:

(A) is designed to be propelled by an electric motor, exclusively or in combination with the application of human power;

(B) cannot attain a speed of more than 20 miles per hour without the application of human power; and

(C) does not exceed a weight of 100 pounds.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1020 (S.B. 343), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 8, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 663 (H.B. 385), § 1, effective June 18, 1999; am. Acts 1999, 76th Leg., ch. 797 (H.B. 1492), § 3, effective September 1, 1999; am.

Acts 2001, 77th Leg., ch. 1085 (H.B. 2204), § 5, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.833, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 1318 (H.B. 1997), § 2, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 558 (H.B. 1267), § 3, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 258 (S.B. 11), § 4.06, effective September 1, 2007; am. Acts 2007, 80th Leg., ch. 923 (H.B. 3190), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1280 (H.B. 1831), § 1.20, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 17 (S.B. 223), § 1, effective May 10, 2013; am. Acts 2013, 83rd Leg., ch. 254 (H.B. 567), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 275 (H.B. 802), § 1, effective June 14, 2013; am. Acts 2013, 83rd Leg., ch. 630 (S.B. 1917), § 1, effective June 14, 2013.)

SUBCHAPTER D
TRAFFIC, TRAFFIC AREAS, AND TRAFFIC CONTROL

Sec. 541.302. Traffic Areas.

In this subtitle:

(1) "Alley" means a street that:

(A) is not used primarily for through traffic; and

(B) provides access to rear entrances of buildings or lots along a street.

(2) "Crosswalk" means:

(A) the portion of a roadway, including an intersection, designated as a pedestrian crossing by surface markings, including lines; or

(B) the portion of a roadway at an intersection that is within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(3) "Freeway" means a divided, controlled-access highway for through traffic.

(4) "Freeway main lane" means a freeway lane having an uninterrupted flow of through traffic.

(5) "Highway or street" means the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel.

(6) "Improved shoulder" means a paved shoulder.

(7) "Laned roadway" means a roadway that is divided into at least two clearly marked lanes for vehicular travel.

(8) "Limited-access or controlled-access highway" means a highway or roadway to which:

(A) persons, including owners or occupants of abutting real property, have no right of access; and

(B) access by persons to enter or exit the highway or roadway is restricted under law except at a place and in the manner determined by the authority that has jurisdiction over the highway or roadway.

(9) "Private road or driveway" means a privately owned way or place used for vehicular travel and used only by the owner and persons who have the owner's express or implied permission.

(10) "Ramp" means an interconnecting roadway of a traffic interchange, or a connecting roadway between highways at different levels or between parallel highways, that allows a vehicle to enter or exit a roadway.

(11) "Roadway" means the portion of a highway, other than the berm or shoulder, that is improved, designed, or ordinarily used for vehicular travel. If a highway includes at least two separate roadways, the term applies to each roadway separately.

(12) "Safety zone" means the area in a roadway officially designated for exclusive pedestrian use and that is protected or so marked or indicated by adequate signs as to be plainly visible at all times while so designated.

(13) "School crossing zone" means a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

(14) "School crosswalk" means a crosswalk designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school.

(15) "Shoulder" means the portion of a highway that is:

(A) adjacent to the roadway;

(B) designed or ordinarily used for parking;

(C) distinguished from the roadway by different design, construction, or marking; and

(D) not intended for normal vehicular travel.

(16) "Sidewalk" means the portion of a street that is:

(A) between a curb or lateral line of a roadway and the adjacent property line; and

(B) intended for pedestrian use.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

CHAPTER 542
GENERAL PROVISIONS

Subchapter E. Miscellaneous

SUBCHAPTER E
MISCELLANEOUS

Sec. 542.501. Obedience Required to Police Officers and to School Crossing Guards.

A person may not wilfully fail or refuse to comply with a lawful order or direction of:

(1) a police officer; or

(2) a school crossing guard who:

(A) is performing crossing guard duties in a school crosswalk to stop and yield to a pedestrian; or

(B) has been trained under Section 600.004 and is directing traffic in a school crossing zone.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 724 (H.B. 964), § 1, effective August 30, 1999.)

CHAPTER 545
OPERATION AND MOVEMENT OF VEHICLES

Subchapter B. Driving on Right Side of Roadway and Passing

Subchapter F. Special Stops and Speed Restrictions

Subchapter I. Miscellaneous Rules

SUBCHAPTER B
DRIVING ON RIGHT SIDE OF ROADWAY AND PASSING

Sec. 545.066. Passing a School Bus; Offense.

(a) An operator on a highway, when approaching from either direction a school bus stopped on the highway to receive or discharge a student:

(1) shall stop before reaching the school bus when the bus is operating a visual signal as required by Section 547.701; and

(2) may not proceed until:

(A) the school bus resumes motion;

(B) the operator is signaled by the bus driver to proceed; or

(C) the visual signal is no longer actuated.

(b) An operator on a highway having separate roadways is not required to stop:

(1) for a school bus that is on a different roadway; or

(2) if on a controlled-access highway, for a school bus that is stopped:

(A) in a loading zone that is a part of or adjacent to the highway; and

(B) where pedestrians are not permitted to cross the roadway.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,250, except that the offense is:

(1) a misdemeanor punishable by a fine of not less than $1,000 or more than $2,000 if the person is convicted of a second or subsequent offense under this section committed within five years of the date on which the most recent preceding offense was committed;

(2) a Class A misdemeanor if the person causes serious bodily injury to another; or

(3) a state jail felony if the person has been previously convicted under Subdivision (2).

(d) The court may order that the driver's license of a person convicted of a second or subsequent offense under this section be suspended for not longer than six months beginning on the date of conviction. In this subsection, "driver's license" has the meaning assigned by Chapter 521.

(e) If a person does not pay the previously assessed fine or costs on a conviction under this section, or is determined by the court to have insufficient resources or income to pay a fine or costs on a conviction under this section, the court may order the person to perform community service. The court shall set the number of hours of service under this subsection.

(f) For the purposes of this section:

(1) a highway is considered to have separate roadways only if the highway has roadways separated by an intervening space on which operation of vehicles is not permitted, a physical barrier, or a clearly indicated dividing section constructed to impede vehicular traffic; and

(2) a highway is not considered to have separate roadways if the highway has roadways separated only by a left turn lane.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 9, effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1325 (H.B. 3588), § 19.06(a), effective September 1, 2003; am. Acts 2013, 83rd Leg., ch. 661 (H.B. 1174), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 661 (H.B. 1174), § 2(a) provides: "The change in law made by this Act applies only to an offense committed on or after September 1, 2013."

SUBCHAPTER F
SPECIAL STOPS AND SPEED RESTRICTIONS

Sec. 545.253. Buses to Stop at All Railroad Grade Crossings.

(a) Except as provided by Subsection (c), the operator of a motor bus carrying passengers for hire, before crossing a railroad grade crossing:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and

(3) may not proceed until it is safe to do so.

(b) After stopping as required by Subsection (a), an operator described by Subsection (a) shall proceed without manually shifting gears while crossing the track.

(c) A vehicle is not required to stop at the crossing if a police officer or a traffic-control signal directs traffic to proceed.

(d) This section does not apply at a railway grade crossing in a business or residence district.

(e) An offense under this section is punishable by a fine of not less than $50 or more than $200.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.107(c), effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1061 (S.B. 1486), § 15, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 10, effective September 1, 1997.)

Sec. 545.2535. School Buses to Stop at All Railroad Grade Crossings.

(a) Except as provided by Subsection (c), the operator of a school bus, before crossing a track at a railroad grade crossing:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the track;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and

(3) may not proceed until it is safe to do so.

(b) After stopping as required by Subsection (a), the operator may proceed in a gear that permits the vehicle to complete the crossing without a change of gears. The operator may not shift gears while crossing the track.

(c) An operator is not required to stop at:

(1) an abandoned railroad grade crossing that is marked with a sign reading "tracks out of service"; or

(2) an industrial or spur line railroad grade crossing that is marked with a sign reading "exempt."

(d) A sign under Subsection (c) may be erected only by or with the consent of the appropriate state or local governmental official.

(Enacted by Acts 1997, 75th Leg., ch. 1061 (S.B. 1486), § 16, effective September 1, 1997; Enacted by Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 11, effective September 1, 1997.)

SUBCHAPTER I
MISCELLANEOUS RULES

Sec. 545.413. Safety Belts; Offense.

(a) A person commits an offense if:

(1) the person:

(A) is at least 15 years of age;

(B) is riding in a passenger vehicle while the vehicle is being operated;

(C) is occupying a seat that is equipped with a safety belt; and

(D) is not secured by a safety belt; or

(2) as the operator of a school bus equipped with a safety belt for the operator's seat, the person is not secured by the safety belt.

(b) A person commits an offense if the person:

(1) operates a passenger vehicle that is equipped with safety belts; and

(2) allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in the vehicle without requiring the child to be secured by a safety belt, provided the child is occupying a seat that is equipped with a safety belt.

(b-1) A person commits an offense if the person allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in a passenger van designed to

transport 15 or fewer passengers, including the driver, without securing the child individually by a safety belt, if the child is occupying a seat that is equipped with a safety belt.

(c) A passenger vehicle or a seat in a passenger vehicle is considered to be equipped with a safety belt if the vehicle is required under Section 547.601 to be equipped with safety belts.

(d) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than $25 or more than $50. An offense under Subsection (b) is a misdemeanor punishable by a fine of not less than $100 or more than $200.

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle;

(6) the person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.433 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or

(7) the person is the operator of or a passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.

(f) The department shall develop and implement an educational program to encourage the wearing of safety belts and to emphasize:

(1) the effectiveness of safety belts and other restraint devices in reducing the risk of harm to passengers in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(g) [Repealed by Acts 2003, 78th Leg., ch. 204 (H.B. 4), § 8.01, effective September 1, 2003.]

(h) In this section, "passenger vehicle," "safety belt," and "secured" have the meanings assigned by Section 545.412.

(i) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of Subsection (b) on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Education Agency, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(j) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality's or county's fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of Subsection (b) of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.115(a), effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 316 (H.B. 856), § 1, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 515 (S.B. 60), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 618 (S.B. 1367), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 910 (S.B. 113), § 2, effective September 1, 2001; am. Acts 2001, 77th Leg., ch. 1042 (H.B. 1739), § 2, effective September 1, 2001; am. Acts 2003, 78th Leg., ch. 204 (H.B. 4), § 8.01, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 431 (H.B. 418), § 1, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 913 (H.B. 183), § 4, effective September 1, 2005; am. Acts 2007, 80th Leg., ch. 923 (H.B. 3190), § 4, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 974 (H.B. 3638), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1257 (H.B. 537), § 2, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 161 (S.B. 1093), § 20.020, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2005, 79th Leg., ch. 913, § 8 provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose."

Acts 2009, 81st Leg., ch. 974 (H.B. 3638) § 2 provides: "The change in law made by this Act to Section 545.413(e), Transportation Code, as amended by this Act, applies only to an offense under Section 545.413(a) of that code, regardless of whether the offense was committed before, on, or after the effective date of this Act [September 1, 2009]."

Acts 2009, 81st Leg., ch. 1257 (H.B. 537) § 4 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

Sec. 545.426. Operation of School Bus.

(a) A person may not operate a school bus if:

(1) the door of the school bus is open; or

(2) the number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

(b) An operator of a school bus, while operating the bus, shall prohibit a passenger from:

(1) standing in the bus; or

(2) sitting:

(A) on the floor of the bus; or

(B) in any location on the bus that is not designed as a seat.

(c) The department may adopt rules necessary to administer and enforce this section.

(Enacted by Acts 2007, 80th Leg., ch. 923 (H.B. 3190), § 5, effective September 1, 2007.)

CHAPTER 547
VEHICLE EQUIPMENT

Subchapter A. General Provisions

Subchapter D. General Provisions Regarding Lighting Requirements

Subchapter J. Provisions Relating to Warning Device Requirements on Vehicles

Subchapter K. Provisions Relating to Other Vehicle Equipment

Subchapter L. Additional Equipment Requirements for School Buses, Authorized Emergency Vehicles, and Slow-Moving Vehicles

SUBCHAPTER A
GENERAL PROVISIONS

Sec. 547.001. Definitions.

In this chapter:

(1) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment used to cool a motor vehicle passenger or operator compartment.

(2) "Explosive cargo vehicle" means a motor vehicle used to transport explosives or a cargo tank truck used to transport a flammable liquid or compressed gas.

(2-a) "Golf cart" has the meaning assigned by Section 502.001.

(3) "Light transmission" means the ratio of the amount of light that passes through a material to the amount of light that falls on the material and the glazing.

(4) "Luminous reflectance" means the ratio of the amount of light that is reflected by a material to the amount of light that falls on the material.

(5) "Multipurpose vehicle" means a motor vehicle that is:

(A) designed to carry 10 or fewer persons; and

(B) constructed on a truck chassis or with special features for occasional off-road use.

(6) "Safety glazing material" includes only a glazing material that is constructed, treated, or combined with another material to reduce substantially, as compared to ordinary sheet or plate glass, the likelihood of injury to persons by an external object or by cracked or broken glazing material.

(7) "Slow-moving vehicle" means:

(A) a motor vehicle designed to operate at a maximum speed of 25 miles per hour or less, not including an electric personal assistive mobility device, as defined by Section 551.201; or

(B) a vehicle, implement of husbandry, or machinery, including road construction machinery, that is towed by:

(i) an animal; or

(ii) a motor vehicle designed to operate at a maximum speed of 25 miles per hour or less.

(8) "Slow-moving-vehicle emblem" means a triangular emblem that conforms to standards and specifications adopted by the director under Section 547.104.

(9) "Sunscreening device" means a film, material, or device that meets the department's standards for reducing effects of the sun.

(10) "Vehicle equipment" means:

(A) a system, part, or device that is manufactured or sold as original or replacement equipment or as a vehicle accessory; or

(B) a device or apparel manufactured or sold to protect a vehicle operator or passenger.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2003, 78th Leg., ch. 1318 (H.B. 1997), § 3, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 1136 (H.B. 2553), § 7, effective September 1, 2009.)

SUBCHAPTER D
GENERAL PROVISIONS REGARDING LIGHTING REQUIREMENTS

Sec. 547.305. Restrictions on Use of Lights.

(a) A motor vehicle lamp or illuminating device, other than a headlamp, spotlamp, auxiliary lamp, turn signal lamp, or emergency vehicle, tow truck, or school bus warning lamp, that projects a beam with an intensity brighter than 300 candlepower shall be directed so that no part of the high-intensity portion of the beam strikes the roadway at a distance of more than 75 feet from the vehicle.

(b) Except as expressly authorized by law, a person may not operate or move equipment or a vehicle, other than a police vehicle, with a lamp or device that displays a red light visible from directly in front of the center of the equipment or vehicle.

(c) A person may not operate a motor vehicle equipped with a red, white, or blue beacon, flashing, or alternating light unless the equipment is:

(1) used as specifically authorized by this chapter; or

(2) a running lamp, headlamp, taillamp, backup lamp, or turn signal lamp that is used as authorized by law.

(d) A vehicle may be equipped with alternately flashing lighting equipment described by Section 547.701 or 547.702 only if the vehicle is:

(1) a school bus;

(2) an authorized emergency vehicle;

(3) a church bus that has the words "church bus" printed on the front and rear of the bus so as to be clearly discernable to other vehicle operators;

(4) a tow truck while under the direction of a law enforcement officer at the scene of an accident or while hooking up to a disabled vehicle on a roadway; or

(5) a tow truck with a mounted light bar which has turn signals and stop lamps in addition to those required by Sections 547.322, 547.323, and 547.324, Transportation Code.

(e) A person may not operate highway maintenance or service equipment, including snow-removal equipment, that is not equipped with lamps or that does not display lighted lamps as required by the standards and specifications adopted by the Texas Department of Transportation.

(f) In this section "tow truck" means a motor vehicle or mechanical device that is adapted or used to tow, winch, or move a disabled vehicle.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 380 (H.B. 3366), § 1, effective July 1, 1999; am. Acts 2011, 82nd Leg., ch. 229 (H.B. 378), § 3, effective September 1, 2011.)

SUBCHAPTER J
PROVISIONS RELATING TO WARNING DEVICE REQUIREMENTS ON VEHICLES

Sec. 547.501. Audible Warning Devices.

(a) A motor vehicle shall be equipped with a horn

in good working condition that emits a sound audible under normal conditions at a distance of at least 200 feet.

(b) A vehicle may not be equipped with and a person may not use on a vehicle a siren, whistle, or bell unless the vehicle is:

(1) a commercial vehicle that is equipped with a theft alarm signal device arranged so that the device cannot be used as an ordinary warning signal; or

(2) an authorized emergency vehicle that is equipped with a siren, whistle, or bell that complies with Section 547.702.

(c) A motor vehicle operator shall use a horn to provide audible warning only when necessary to insure safe operation.

(d) A warning device, including a horn, may not emit an unreasonably loud or harsh sound or a whistle.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.502. Visible Warning Devices Required.

(a) Except as provided by Subsection (b), a person who operates, outside an urban district or on a divided highway, a truck, bus, or truck-tractor or a motor vehicle towing a house trailer shall carry in the vehicle:

(1) at daytime:

(A) at least two red flags at least 12 inches square; and

(B) standards to support the flags; and

(2) at nighttime:

(A) at least three flares and at least three red-burning fusees;

(B) at least three red electric lanterns; or

(C) at least three portable red emergency reflectors.

(b) A person who operates an explosive cargo vehicle at nighttime:

(1) shall carry in the vehicle three red electric lanterns or three portable red emergency reflectors; and

(2) may not carry in the vehicle a flare, fusee, or signal produced by flame.

(c) A flare, electric lantern, or portable reflector must be visible and distinguishable at a distance of at least 600 feet at night under normal atmospheric conditions.

(d) A portable reflector unit must be designed and constructed to reflect a red light clearly visible at all distances from 100 to 600 feet under normal atmospheric conditions at night when directly in front of lawful lower beams of headlamps.

(e) A flare, fusee, electric lantern, portable reflector, or warning flag must be a type approved by the department.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.503. Display of Hazard Lamps.

(a) The operator of a vehicle that is described by Subsection (b) and that is stopped on a roadway or shoulder shall immediately display vehicular hazard warning lamps that comply with Section 547.331, unless the vehicle:

(1) is parked lawfully in an urban district;

(2) is stopped lawfully to receive or discharge a passenger;

(3) is stopped to avoid conflict with other traffic;

(4) is stopped to comply with a direction of a police officer or an official traffic-control device; or

(5) displays other warning devices as required by Sections 547.504—547.507.

(b) This section applies to a truck, bus, truck-tractor, trailer, semitrailer, or pole trailer at least 80 inches wide or at least 30 feet long.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.504. Display of Devices When Lighted Lamps Required.

(a) Unless sufficient light exists to reveal a person or vehicle at a distance of 1,000 feet, the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle shall display warning devices that comply with the requirements of Section 547.502:

(1) when lighted lamps are required; and

(2) under the conditions stated in this section.

(b) Except as provided by Section 547.506 and Subsection (d), the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, on a roadway outside an urban district shall:

(1) immediately place a lighted red electric lantern or a portable red emergency reflector at the traffic side of the vehicle in the direction of the nearest approaching traffic; and

(2) place in the following order and as soon as practicable within 15 minutes one lighted red electric lamp or portable red emergency reflector:

(A) in the center of the lane occupied by the vehicle toward approaching traffic approximately 100 feet from the vehicle; and

(B) in the center of the lane occupied by the vehicle in the opposite direction approximately 100 feet from the vehicle.

(c) Except as provided by Section 547.506 and Subsection (d), the operator of a vehicle described by

Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, on a roadway of a divided highway shall place the warning devices described by Subsection (b):

(1) in the center of the lane occupied by the vehicle toward approaching traffic approximately 200 feet from the vehicle;

(2) in the center of the lane occupied by the vehicle toward approaching traffic approximately 100 feet from the vehicle; and

(3) at the traffic side approximately 10 feet from the vehicle in the direction of the nearest approaching traffic.

(d) As an alternative to the use of electric lamps or red reflectors and except as provided by Subsection (e), the operator of a vehicle described by Section 547.503(b) may display a lighted fusee to comply with the requirements of Subsection (b)(1) or liquid-burning flares to comply with the requirements of Subsections (b)(2) and (c). If the operator uses liquid-burning flares to comply with Subsection (b)(2), the operator shall also, after complying with Subsection (b)(2)(B), place a liquid-burning flare at the traffic side of the vehicle at least 10 feet in the direction of the nearest approaching traffic. If a fusee is used to comply with Subsection (b)(1), the operator shall comply with Subsection (b)(2) within the burning period of the fusee.

(e) The operator of an explosive cargo vehicle may not display as a warning device a flare, fusee, or signal produced by flame.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.505. Display of Devices When Lighted Lamps Are Not Required.

(a) The operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, on a roadway outside an urban district or on a roadway of a divided highway when lighted lamps are not required shall display two red flags that comply with Section 547.502.

(b) If traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one approximately 100 feet ahead of the vehicle in the center of the lane occupied by the vehicle.

(c) If traffic on the roadway moves in one direction, one flag shall be placed approximately 100 feet and one approximately 200 feet to the rear of the vehicle in the center of the lane occupied by the vehicle.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.506. Display of Devices: Vehicles Off Roadway.

The operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is stopped entirely on the shoulder at a time and in a place referred to in this subchapter shall place required warning devices on the shoulder as close as practicable to the edge of the roadway.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.507. Display of Devices When View of Vehicle Obstructed.

Unless sufficient light exists to reveal a person or vehicle at a distance of 1,000 feet, the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, within 500 feet of a curve, hillcrest, or other obstruction to view shall place the required warning device for the direction of the obstruction from 100 to 500 feet from the vehicle so as to provide ample warning to other traffic.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.508. Offense Relating to Warning Devices.

(a) Except as provided by Subsection (b), a person may not remove, damage, destroy, misplace, or extinguish a warning device required under Sections 547.502—547.507 when the device is being displayed or used as required.

(b) This section does not apply to:

(1) an owner of a vehicle or the owner's authorized agent or employee; or

(2) a peace officer acting in an official capacity.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

SUBCHAPTER K
PROVISIONS RELATING TO OTHER VEHICLE EQUIPMENT

Sec. 547.601. Safety Belts Required.

A motor vehicle required by Chapter 548 to be inspected shall be equipped with front safety belts if safety belt anchorages were part of the manufacturer's original equipment on the vehicle.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.602. Mirrors Required.

A motor vehicle, including a motor vehicle used to tow another vehicle, shall be equipped with a mirror located to reflect to the operator a view of the

highway for a distance of at least 200 feet from the rear of the vehicle.
(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.603. Windshield Wipers Required.

A motor vehicle shall be equipped with a device that is operated or controlled by the operator of the vehicle and that cleans moisture from the windshield. The device shall be maintained in good working condition.
(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.604. Muffler Required.

(a) A motor vehicle shall be equipped with a muffler in good working condition that continually operates to prevent excessive or unusual noise.

(b) A person may not use a muffler cutout, bypass, or similar device on a motor vehicle.
(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.605. Emission Systems Required.

(a) The engine and power mechanism of a motor vehicle shall be equipped and adjusted to prevent the escape of excessive smoke or fumes.

(b) A motor vehicle or motor vehicle engine, of a model year after 1967, shall be equipped to prevent the discharge of crankcase emissions into the ambient atmosphere.

(c) The owner or operator of a motor vehicle or motor vehicle engine, of a model year after 1967, that is equipped with an exhaust emission system:

(1) shall maintain the system in good working condition;

(2) shall use the system when the motor vehicle or motor vehicle engine is operated; and

(3) may not remove the system or a part of the system or intentionally make the system inoperable in this state, unless the owner or operator removes the system or part to install another system or part intended to be equally effective in reducing atmospheric emissions.

(d) Except when travel conditions require the downshifting or use of lower gears to maintain reasonable momentum, a person commits an offense if the person operates, or as an owner knowingly permits another person to operate, a vehicle that emits:

(1) visible smoke for 10 seconds or longer; or

(2) visible smoke that remains suspended in the air for 10 seconds or longer before fully dissipating.

(e) An offense under this section is a misdemeanor punishable by a fine of not less than $1 and not more than $350 for each violation. If a person has previously been convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than $200 and not more than $1,000 for each violation.
(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2001, 77th Leg., ch. 1075 (H.B. 2134), § 6, effective September 1, 2001.)

Sec. 547.606. Safety Guards or Flaps Required.

(a) A road tractor, truck, trailer, truck-tractor in combination with a semitrailer, or semitrailer in combination with a towing vehicle that has at least four tires or at least two super single tires on the rearmost axle of the vehicle or the rearmost vehicle in the combination shall be equipped with safety guards or flaps that:

(1) are of a type prescribed by the department; and

(2) are located and suspended behind the rearmost wheels of the vehicle or the rearmost vehicle in the combination within eight inches of the surface of the highway.

(b) This section does not apply to a truck-tractor operated alone or a pole trailer.

(c) In this section, "super single tire" means a wide-base, single tire that may be used in place of two standard tires on the same axle.
(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2011, 82nd Leg., ch. 752 (H.B. 1330), § 1, effective September 1, 2011.)

Sec. 547.607. Fire Extinguisher Required.

A school bus or a motor vehicle that transports passengers for hire or lease shall be equipped with at least one quart of chemical-type fire extinguisher in good condition and located for immediate use.
(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.608. Safety Glazing Material Required.

(a) Except as provided by Subsection (b), a person who sells or registers a new passenger-type motor vehicle, including a passenger bus and school bus, shall equip the vehicle doors, windows, and windshield with safety glazing material of a type approved by the department.

(b) The requirements of Subsection (a) do not apply to a glazing material in a compartment of a

truck, including a truck-tractor, that is not designed and equipped for a person to ride in.

(c) A person may not replace or require the replacement of glass in a door, window, or windshield of any motor vehicle if the replacement is not made with safety glazing material.

(d) A person who sells or attaches to a motor vehicle a camper manufactured or assembled after January 1, 1972, shall equip the camper doors and windows with safety glazing material of a type approved by the department. In this subsection "camper" means a structure designed to:

(1) be loaded on or attached to a motor vehicle; and

(2) provide temporary living quarters for recreation, travel, or other use.

(e) A person who sells imperfect safety glass for a door, window, or windshield of a motor vehicle shall:

(1) label the glass "second," "imperfect," or by a similar term in red letters at least one inch in size to indicate to the consumer the quality of the glass;

(2) orally notify the consumer of each imperfection and the possible result of using imperfect glass; and

(3) deliver written notice at the time of purchase notifying the consumer of each imperfection and the possible result of using imperfect glass.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.609. Required Label for Sunscreening Devices.

A sunscreening device must have a label that:

(1) is legible;

(2) contains information required by the department on light transmission and luminous reflectance of the device;

(3) if the device is placed on or attached to a windshield or a side or rear window, states that the light transmission of the device is consistent with Section 547.613(b)(1) or (2), as applicable; and

(4) is permanently installed between the material and the surface to which the material is applied.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 750 (S.B. 589), § 1, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 750 (S.B. 589), § 3, provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose."

Sec. 547.610. Safe Air-Conditioning Equipment Required; Sale of Noncomplying Vehicle.

(a) Air-conditioning equipment:

(1) shall be manufactured, installed, and maintained to ensure the safety of the vehicle occupants and the public; and

(2) may not contain any refrigerant that is flammable or is toxic to persons unless the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12, pursuant to 42 U.S.C. Section 7671k(c).

(b) A person may not possess or offer for sale, sell, or equip a motor vehicle with air-conditioning equipment that does not comply with the requirements of this section and Section 547.103.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 282 (S.B. 2019), § 1, effective May 30, 2009.)

Sec. 547.611. Use of Certain Video Equipment and Television Receivers.

(a) A motor vehicle may be equipped with video receiving equipment, including a television, a digital video disc player, a videocassette player, or similar equipment, only if the equipment is located so that the video display is not visible from the operator's seat unless the vehicle's transmission is in park or the vehicle's parking brake is applied.

(b) A motor vehicle specially designed as a mobile unit used by a licensed television station may have video receiving equipment located so that the video display is visible from the operator's side, but the receiver may be used only when the vehicle is stopped.

(c) This section does not prohibit the use of:

(1) equipment used:

(A) exclusively for receiving digital information for commercial purposes;

(B) exclusively for a safety or law enforcement purpose, if each installation is approved by the department;

(C) in a remote television transmission truck; or

(D) exclusively for monitoring the performance of equipment installed on a vehicle used for safety purposes in connection with the oper-

ations of a natural gas, water, or electric utility; or

(2) a monitoring device that:

(A) produces an electronic display; and

(B) is used exclusively in conjunction with a mobile navigation system installed in the vehicle.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.117(a), effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 20 (S.B. 209), §§ 1, 2, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 942 (H.B. 3832), § 1, effective June 15, 2007.)

Sec. 547.612. Restrictions on Use and Sale of Tires.

(a) A solid rubber tire used on a vehicle must have rubber on the traction surface that extends above the edge of the flange of the periphery.

(b) A person may not operate or move a motor vehicle, trailer, or semitrailer that has a metal tire in contact with the roadway, unless:

(1) the vehicle is a farm wagon or farm trailer that has a gross weight of less than 5,000 pounds; and

(2) the owner is transporting farm products to market, for processing, or from farm to farm.

(c) A tire used on a moving vehicle may not have on its periphery a block, stud, flange, cleat, or spike or other protuberance of a material other than rubber that projects beyond the tread of the traction surface, unless the protuberance:

(1) does not injure the highway; or

(2) is a tire chain of reasonable proportion that is used as required for safety because of a condition that might cause the vehicle to skid.

(d) The Texas Transportation Commission and a local authority within its jurisdiction may issue a special permit that authorizes a person to operate a tractor or traction engine that has movable tracks with transverse corrugations on the periphery or a farm tractor or other farm machinery.

(e) A person commits an offense if the person offers for sale or sells a private passenger automobile tire that is regrooved. An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $2,000.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.613. Restrictions on Windows.

(a) Except as provided by Subsection (b), a person commits an offense that is a misdemeanor:

(1) if the person operates a motor vehicle that has an object or material that is placed on or attached to the windshield or side or rear window and that obstructs or reduces the operator's clear view; or

(2) if a person, including an installer or manufacturer, places on or attaches to the windshield or side or rear window of a motor vehicle a transparent material that alters the color or reduces the light transmission.

(a-1) A person in the business of placing or attaching transparent material that alters the color or reduces the light transmission to the windshield or side or rear window of a motor vehicle commits a misdemeanor punishable by a fine not to exceed $1,000 if the person:

(1) places or attaches such transparent material to the windshield or side or rear window of a motor vehicle; and

(2) does not install a label that complies with Section 547.609 between the transparent material and the windshield or side or rear window of the vehicle, as applicable.

(b) Subsection (a) does not apply to:

(1) a windshield that has a sunscreening device that:

(A) in combination with the windshield has a light transmission of 25 percent or more;

(B) in combination with the windshield has a luminous reflectance of 25 percent or less;

(C) is not red, blue, or amber; and

(D) does not extend downward beyond the AS-1 line or more than five inches from the top of the windshield, whichever is closer to the top of the windshield;

(2) a wing vent or a window that is to the left or right of the vehicle operator if the vent or window has a sunscreening device that in combination with the vent or window has:

(A) a light transmission of 25 percent or more; and

(B) a luminous reflectance of 25 percent or less;

(2-a) a side window that is to the rear of the vehicle operator;

(3) a rear window, if the motor vehicle is equipped with an outside mirror on each side of the vehicle that reflects to the vehicle operator a view of the highway for a distance of at least 200 feet from the rear;

(4) a rearview mirror;

(5) an adjustable nontransparent sun visor that is mounted in front of a side window and not attached to the glass;

(6) a direction, destination, or termination sign on a passenger common carrier motor vehicle, if the sign does not interfere with the vehicle operator's view of approaching traffic;

(7) a rear window wiper motor;

(8) a rear trunk lid handle or hinge;

(9) a luggage rack attached to the rear trunk;

(10) a side window that is to the rear of the vehicle operator on a multipurpose vehicle;

(11) a window that has a United States, state, or local certificate placed on or attached to it as required by law;

(12) a motor vehicle that is not registered in this state;

(13) a window that complies with federal standards for window materials, including a factory-tinted or a pretinted window installed by the vehicle manufacturer, or a replacement window meeting the specifications required by the vehicle manufacturer;

(14) a vehicle that is:

(A) used regularly to transport passengers for a fee; and

(B) authorized to operate under license or permit by a local authority;

(15) a vehicle that is maintained by a law enforcement agency and used for law enforcement purposes; or

(16) a commercial motor vehicle as defined by Section 644.001.

(c) A manufacturer shall certify to the department that the sunscreening device made or assembled by the manufacturer complies with the light transmission and luminous reflectance specifications established by Subsection (b) for sunscreening devices in combination with a window.

(d) The department may determine that a window that has a sunscreening device is exempt under Subsection (b)(2) if the light transmission or luminous reflectance varies by no more than three percent from the standard established in that subsection.

(e) It is a defense to prosecution under Subsection (a) that the defendant or a passenger in the vehicle at the time of the violation is required for a medical reason to be shielded from direct rays of the sun.

(f) It is not an offense under this section for a person to offer for sale or sell a motor vehicle with a windshield or window that does not comply with this section.

(g) In this section:

(1) "Installer" means a person who fabricates, laminates, or tempers a safety glazing material to incorporate, during the installation process, the capacity to reflect light or reduce light transmission.

(2) "Manufacturer" means a person who:

(A) manufactures or assembles a sunscreening device; or

(B) fabricates, laminates, or tempers safety glazing material to incorporate, during the manufacturing process, the capacity to reflect light or reduce light transmission.

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.118(a), effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 136 (S.B. 345), § 1, effective September 1, 2003; am. Acts 2007, 80th Leg., ch. 368 (S.B. 329), § 1, effective June 15, 2007; am. Acts 2009, 81st Leg., ch. 750 (S.B. 589), § 2, effective September 1, 2009.)

STATUTORY NOTES

Applicability. — Acts 2009, 81st Leg., ch. 750 (S.B. 589), § 3, provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2009]. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose."

Sec. 547.614. Restrictions on Airbags.

(a) In this section, "counterfeit airbag" means an airbag that does not meet all applicable federal safety regulations for an airbag designed to be installed in a vehicle of a particular make, model, and year.

(a-1) A person commits an offense if the person knowingly:

(1) installs or purports to install an airbag in a vehicle; and

(2) does not install an airbag or installs a counterfeit airbag.

(a-2) A person commits an offense if the person:

(1) makes or sells a counterfeit airbag to be installed in a motor vehicle;

(2) intentionally alters an airbag that is not counterfeit in a manner that causes the airbag to not meet all applicable federal safety regulations for an airbag designed to be installed in a vehicle of a particular make, model, and year;

(3) represents to another person that a counterfeit airbag installed in a motor vehicle is not counterfeit; or

(4) causes another person to violate Subsection (a-1) or Subdivision (1), (2), or (3) or assists a person in violating Subsection (a-1) or Subdivision (1), (2), or (3).

(b) Except as provided by Subsections (c), (d), and (e), an offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section.

(d) An offense under this section is a felony of the second degree if it is shown on the trial of the offense that as a result of the offense an individual suffered bodily injury.

(e) An offense under this section is a felony of the first degree if it is shown on the trial of the offense that the offense resulted in the death of a person.

(Enacted by Acts 2001, 77th Leg., ch. 910 (S.B. 113), § 3, effective September 1, 2001; am. Acts 2007, 80th Leg., ch. 269 (H.B. 71), § 1, effective September 1, 2007; am. Acts 2013, 83rd Leg., ch. 843 (H.B. 38), § 1, effective September 1, 2013.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 843 (H.B. 38), § 2 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [September 1, 2013]. An offense committed before the effective date of this Act is covered by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

Sec. 547.615. Recording Devices.

(a) In this section:

(1) "Owner" means a person who:

(A) has all the incidents of ownership of a motor vehicle, including legal title, regardless of whether the person lends, rents, or creates a security interest in the vehicle;

(B) is entitled to possession of a motor vehicle as a purchaser under a security agreement; or

(C) is entitled to possession of a motor vehicle as a lessee under a written lease agreement if the agreement is for a period of not less than three months.

(2) "Recording device" means a feature that is installed by the manufacturer in a motor vehicle and that does any of the following for the purpose of retrieving information from the vehicle after an accident in which the vehicle has been involved:

(A) records the speed and direction the vehicle is traveling;

(B) records vehicle location data;

(C) records steering performance;

(D) records brake performance, including information on whether brakes were applied before an accident;

(E) records the driver's safety belt status; or

(F) transmits information concerning the accident to a central communications system when the accident occurs.

(b) A manufacturer of a new motor vehicle that is sold or leased in this state and that is equipped with a recording device shall disclose that fact in the owner's manual of the vehicle.

(c) Information recorded or transmitted by a recording device may not be retrieved by a person other than the owner of the motor vehicle in which the recording device is installed except:

(1) on court order;

(2) with the consent of the owner for any purpose, including for the purpose of diagnosing, servicing, or repairing the motor vehicle;

(3) for the purpose of improving motor vehicle safety, including for medical research on the human body's reaction to motor vehicle accidents, if the identity of the owner or driver of the vehicle is not disclosed in connection with the retrieved information; or

(4) for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle accident.

(d) For information recorded or transmitted by a recording device described by Subsection (a)(2)(B), a court order may be obtained only after a showing that:

(1) retrieval of the information is necessary to protect the public safety; or

(2) the information is evidence of an offense or constitutes evidence that a particular person committed an offense.

(e) For the purposes of Subsection (c)(3):

(1) disclosure of a motor vehicle's vehicle identification number with the last six digits deleted or redacted is not disclosure of the identity of the owner or driver; and

(2) retrieved information may be disclosed only:

(A) for the purposes of motor vehicle safety and medical research communities to advance the purposes described in Subsection (c)(3); or

(B) to a data processor solely for the purposes described in Subsection (c)(3).

(f) If a recording device is used as part of a subscription service, the subscription service agreement must disclose that the device may record or transmit information as described by Subsection (a)(2). Subsection (c) does not apply to a subscription service under this subsection.

(Enacted by Acts 2005, 79th Leg., ch. 910 (H.B. 160), § 1, effective September 1, 2006.)

Sec. 547.616. Radar Interference Devices; Offense.

(a) In this section, "radar interference device" means a device, a mechanism, an instrument, or equipment that is designed, manufactured, used, or intended to be used to interfere with, scramble, disrupt, or otherwise cause to malfunction a radar or laser device used to measure the speed of a motor vehicle by a law enforcement agency of this state or a political subdivision of this state, including a "radar jamming device," "jammer," "scrambler," or

"diffuser." The term does not include a ham radio, band radio, or similar electronic device.

(b) A person, other than a law enforcement officer in the discharge of the officer's official duties, may not use, attempt to use, install, operate, or attempt to operate a radar interference device in a motor vehicle operated by the person.

(c) A person may not purchase, sell, or offer for sale a radar interference device to be used in a manner described by Subsection (b).

(d) A person who violates this section commits an offense. An offense under this subsection is a Class C misdemeanor.

(Enacted by Acts 2011, 82nd Leg., ch. 739 (H.B. 1116), § 1, effective September 1, 2011.)

Sec. 547.617. [Effective January 1, 2015] Motorcycle Footrests and Handholds Required.

A motorcycle that is designed to carry more than one person must be equipped with footrests and handholds for use by the passenger.

(Enacted by Acts 2013, 83rd Leg., ch. 1111 (H.B. 3838), § 4, effective January 1, 2015.)

STATUTORY NOTES

Applicability. — Acts 2013, 83rd Leg., ch. 1111 (H.B. 3838), § 8 provides: "The change in law made by this Act applies only to an offense committed on or after the effective date of this Act [January 1, 2015]. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date."

SUBCHAPTER L ADDITIONAL EQUIPMENT REQUIREMENTS FOR SCHOOL BUSES, AUTHORIZED EMERGENCY VEHICLES, AND SLOW-MOVING VEHICLES

Sec. 547.701. Additional Equipment Requirements for School Buses and Other Buses Used to Transport Schoolchildren.

(a) A school bus shall be equipped with:

(1) a convex mirror or other device that reflects to the school bus operator a clear view of the area immediately in front of the vehicle that would otherwise be hidden from view; and

(2) signal lamps that:

(A) are mounted as high and as widely spaced laterally as practicable;

(B) display four alternately flashing red lights, two located on the front at the same level and two located on the rear at the same level; and

(C) emit a light visible at a distance of 500 feet in normal sunlight.

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

(A) that conform to and are placed on the bus in accordance with specifications adopted under Section 34.002, Education Code; and

(B) that are operated under rules adopted by the school district; and

(2) movable stop arms:

(A) that conform to regulations adopted under Section 34.002, Education Code; and

(B) that may be operated only when the bus is stopped to load or unload students.

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children. A person may not operate such a light or other equipment except when the bus is being stopped or is stopped on a highway to permit students to board or exit the bus.

(d) The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety warning equipment. The department shall adopt rules to implement this subsection. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies.

(e) In this subsection, "bus" includes a school bus and a school activity bus. A bus operated by or contracted for use by a school district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This subsection applies to:

(1) each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and

(2) each school-chartered bus contracted for use by a school district on or after September 1, 2011, for the transportation of schoolchildren.

(f) A school district is required to comply with Subsection (e) only to the extent that the legislature has appropriated money for the purpose of reimbursing school districts for expenses incurred in complying with Subsection (e).

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 1438 (H.B. 3249), § 12, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 183 (H.B. 1744), § 1, effective September 1, 1999; am. Acts 2007, 80th Leg., ch. 259 (H.B. 323), § 1, effec-

tive September 1, 2007; am. Acts 2007, 80th Leg., ch. 259 (H.B. 323), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 1328 (H.B. 3646), § 90(b), (c), effective September 1, 2009; am. Acts 2011, 82nd Leg., ch. 451 (S.B. 1610), § 1, effective September 1, 2011.)

Sec. 547.7011. Additional Equipment Requirements for Other Buses.

(a) A bus, other than a school bus, that provides public transportation and that was acquired on or after September 1, 1997, shall be equipped with two or more hazard lamps that:

(1) are mounted at the same level on the rear of the bus;

(2) are visible at a distance of 500 feet in normal sunlight;

(3) flash; and

(4) emit amber light.

(b) An operator of a bus to which this section applies shall activate the hazard lamps if the bus stops to load or unload a person under 18 years of age.

(c) A bus to which this section applies must bear a sign on the rear of the bus stating: "Caution—children may be exiting".

(Enacted by Acts 1997, 75th Leg., ch. 1131 (H.B. 3092), § 1, effective September 1, 1997.)

Sec. 547.7012. Requirements for Multifunction School Activity Buses.

A multifunction school activity bus may not be painted National School Bus Glossy Yellow.

(Enacted by Acts 2007, 80th Leg., ch. 923 (H.B. 3190), § 6, effective September 1, 2007.)

Sec. 547.7015. Rules Relating to School Buses.

(a) The department shall adopt and enforce rules governing the design, color, lighting and other equipment, construction, and operation of a school bus for the transportation of schoolchildren that is:

(1) owned and operated by a school district in this state; or

(2) privately owned and operated under a contract with a school district in this state.

(b) In adopting rules under this section, the department shall emphasize:

(1) safety features; and

(2) long-range, maintenance-free factors.

(c) Rules adopted under this section:

(1) apply to each school district, the officers and employees of a district, and each person employed under contract by a school district; and

(2) shall by reference be made a part of any contract that is entered into by a school district in this state for the transportation of schoolchildren on a privately owned school bus.

(Enacted by Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 30.119(a), effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 309 (H.B. 3042), § 9.02, effective June 18, 2003.)

Sec. 547.702. Additional Equipment Requirements for Authorized Emergency Vehicles.

(a) An authorized emergency vehicle may be equipped with a siren, exhaust whistle, or bell:

(1) of a type approved by the department; and

(2) that emits a sound audible under normal conditions at a distance of at least 500 feet.

(b) The operator of an authorized emergency vehicle shall use the siren, whistle, or bell when necessary to warn other vehicle operators or pedestrians of the approach of the emergency vehicle.

(c) Except as provided by this section, an authorized emergency vehicle shall be equipped with signal lamps that:

(1) are mounted as high and as widely spaced laterally as practicable;

(2) display four alternately flashing red lights, two located on the front at the same level and two located on the rear at the same level; and

(3) emit a light visible at a distance of 500 feet in normal sunlight.

(d) A private vehicle operated by a volunteer firefighter responding to a fire alarm or a medical emergency may, but is not required to, be equipped with signal lamps that comply with the requirements of Subsection (c).

(e) A private vehicle operated by a volunteer firefighter responding to a fire alarm or a medical emergency may be equipped with a signal lamp that is temporarily attached to the vehicle roof and flashes a red light visible at a distance of at least 500 feet in normal sunlight.

(f) A police vehicle may, but is not required to, be equipped with signal lamps that comply with Subsection (c).

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995.)

Sec. 547.703. Additional Equipment Requirements for Slow-Moving Vehicles.

(a) Except as provided by Subsection (b), a slow-moving vehicle shall display a slow-moving-vehicle emblem that:

(1) has a reflective surface designed to be clearly visible in daylight or at night from the light of standard automobile headlamps at a distance of at least 500 feet;

(2) is mounted base down on the rear of the vehicle at a height from three to five feet above the road surface; and

(3) is maintained in a clean, reflective condition.

(b) Subsection (a) does not apply to a vehicle that is used in construction or maintenance work and is traveling in a construction area that is marked as required by the Texas Transportation Commission.

(c) If a motor vehicle displaying a slow-moving-vehicle emblem tows machinery, including an implement of husbandry, and the visibility of the emblem is not obstructed, the towed unit is not required to display a slow-moving-vehicle emblem.

(d) A golf cart that is operated at a speed of not more than 25 miles per hour is required to display a slow-moving-vehicle emblem when it is operated on a public highway, as defined by Section 502.001, under Section 551.403 or 551.404.

(e) [Repealed by Acts 2009, 81st Leg., ch. 1136 (H.B. 2553), § 12(2), effective September 1, 2009.]

(Enacted by Acts 1995, 74th Leg., ch. 165 (S.B. 971), § 1, effective September 1, 1995; am. Acts 2009, 81st Leg., ch. 1136 (H.B. 2553), §§ 9, 12(2), effective September 1, 2009.)

Utilities Code

TITLE 2
PUBLIC UTILITY REGULATORY ACT

SUBTITLE B
ELECTRIC UTILITIES

CHAPTER 31
GENERAL PROVISIONS

Section
31.004. Energy-Efficient School Facilities.

Sec. 31.004. Energy-Efficient School Facilities.

(a) The commission may serve as a resource center to assist school districts in developing energy-efficient facilities.

(b) As a resource center under this section, the commission may:

(1) present programs to school districts relating to managing energy, training school-plant operators, and designing energy-efficient buildings;

(2) provide school districts with technical assistance in managing energy;

(3) collect and distribute information relating to energy management in school facilities; and

(4) offer energy resource workshops to educators and make available to educators a film library on energy-related matters and energy education lesson packages.

(c) The commission shall provide information to school districts regarding how a school district may finance the installation of solar electric generation panels for school district buildings.

(Enacted by Acts 1997, 75th Leg., ch. 166 (S.B. 1751), § 1, effective September 1, 1997; am. Acts 2007, 80th Leg., ch. 939 (H.B. 3693), § 18, effective September 1, 2007.)

Constitution of the State of Texas 1876

ARTICLE I

Bill of Rights

§ 27. Right of Assembly; Petition for Redress of Grievances.

The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance.

ARTICLE III

Legislative Department

§ 50. Loan or Pledge of Credit of State.

The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

§ 51. Grants of Public Money Prohibited; Exceptions.

The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided that the provisions of this Section shall not be construed so as to prevent the grant of aid in cases of public calamity.

(Amendment proposed by 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election).

§ 51g. Social Security Coverage of Proprietary Employees of Political Subdivisions.

The Legislature shall have the power to pass such laws as may be necessary to enable the State to enter into agreements with the Federal Government to obtain for proprietary employees of its political subdivisions coverage under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as amended. The Legislature shall have the power to make appropriations and authorize all obligations necessary to the establishment of such Social Security coverage program.

§ 52. Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds.

(a) Except as otherwise provided by this section, the Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company. However, this section does not prohibit the use of public funds or credit for the payment of premiums on nonassessable property and casualty, life, health, or accident insurance policies and annuity contracts issued by a mutual insurance company authorized to do business in this State.

(b) Under Legislative provision, any county, political subdivision of a county, number of adjoining counties, political subdivision of the State, or defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include, towns, villages or municipal corporations, upon a vote of two-thirds majority of the voting qualified voters of such district or territory to be affected thereby, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes to wit:

(1) The improvement of rivers, creeks, and streams to prevent overflows, and to permit of navigation thereof, or irrigation thereof, or in aid of such purposes.

(2) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(3) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(c) Notwithstanding the provisions of Subsection (b) of this Section, bonds may be issued by any county in an amount not to exceed one-fourth of the assessed valuation of the real property in the county, for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, upon a vote of a majority of the voting qualified voters of the county, and without the necessity of further or amendatory legislation. The county may levy and collect taxes to pay the interest on the bonds as it becomes due and to provide a sinking fund for redemption of the bonds.

(d) Any defined district created under this section that is authorized to issue bonds or otherwise lend its credit for the purposes stated in Subdivisions (1) and (2) of Subsection (b) of this section may engage in fire-fighting activities and may issue bonds or otherwise lend its credit for fire-fighting purposes as provided by law and this constitution.

(e) A county, city, town, or other political corporation or subdivision of the state may invest its funds as authorized by law.

(Amendment to subsection (a) proposed by 1999 76th Leg., H.J.R. No. 69, approved by electorate (Prop. 11); amendments to subsections (b) and (c) proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election).

§ 53. County or Municipal Authorities; Extra Compensation; Unauthorized Claims.

The Legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee or allowance to a public officer, agent, servant or contractor, after service has been rendered, or a contract has been

entered into, and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

ARTICLE VII

Education

§ 1. Support and Maintenance of System of Public Free Schools.

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

§ 2. Perpetual School Fund.

All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent school fund.
(Amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 109, § 2; approved by the electorate (Prop. 6) at the election held November 8, 2011).

§ 2A. Authority to Release State's Interest in Land Held by Person under Color of Title.

(a) The State of Texas hereby relinquishes and releases any claim of sovereign ownership or title to an undivided one-third interest in and to the lands and minerals within the Shelby, Frazier, and McCormick League (now located in Fort Bend and Austin counties) arising out of the interest in that league originally granted under the Mexican Colonization Law of 1823 to John McCormick on or about July 24, 1824, and subsequently voided by the governing body of Austin's Original Colony on or about December 15, 1830.

(b) The State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the lands, excluding the minerals, in Tracts 2-5, 13, 15-17, 19-20, 23-26, 29-32, and 34-37, in the A. P. Nance Survey, Bastrop County, as said tracts are:

(1) shown on Bastrop County Rolled Sketch No. 4, recorded in the General Land Office on December 15, 1999; and

(2) further described by the field notes prepared by a licensed state land surveyor of Travis County in September through November 1999 and May 2000.

(c) Title to such interest in the lands and minerals described by Subsection (a) is confirmed to the owners of the remaining interests in such lands and minerals. Title to the lands, excluding the minerals, described by Subsection (b) is confirmed to the holder of record title to each tract. Any outstanding land award or land payment obligation owed to the state for lands described by Subsection (b) is canceled, and any funds previously paid related to an outstanding land award or land payment obligation may not be refunded.

(d) The General Land Office shall issue a patent to the holder of record title to each tract described by Subsection (b). The patent shall be issued in the same manner as other patents except that no filing fee or patent fee may be required.

(e) A patent issued under Subsection (d) shall include a provision reserving all mineral interest in the land to the state.

(f) This section is self-executing.
(Amendment proposed by 2001 77th Leg., H.J.R. No. 52, approved by electorate at the November 6, 2001 election).

§ 2B. Authority to Release State's Interest in Land Held by Person under Color of Title.

(a) The legislature by law may provide for the release of all or part of the state's interest in land, excluding mineral rights, if:

(1) the land is surveyed, unsold, permanent school fund land according to the records of the General Land Office;

(2) the land is not patentable under the law in effect before January 1, 2002; and

(3) the person claiming title to the land:

(A) holds the land under color of title;

(B) holds the land under a chain of title that originated on or before January 1, 1952;

(C) acquired the land without actual knowledge that title to the land was vested in the State of Texas;

(D) has a deed to the land recorded in the appropriate county; and

(E) has paid all taxes assessed on the land and any interest and penalties associated with any period of tax delinquency.

(b) This section does not apply to:

(1) beach land, submerged or filled land, or islands; or

(2) land that has been determined to be state-owned by judicial decree.

(c) This section may not be used to:

(1) resolve boundary disputes; or

(2) change the mineral reservation in an existing patent.

(d) [Expired pursuant to Acts 2001, 77th Leg., H.J.R. No. 53, § 1, effective January 2, 2002.]

(Adoption proposed by Acts 2001, 77th Leg., H.J.R. No. 53, approved by electorate (Prop. 17) at the November 6, 2001 election, effective January 1, 2002.)

§ 2C. Release of Claims to Land and Minerals in Upshur and Smith Counties.

(a) Except as provided by Subsection (b) of this section, the State of Texas relinquishes and releases any claim of sovereign ownership or title to an interest in and to the tracts of land, including mineral rights, described as follows:

Tract 1:

The first tract of land is situated in Upshur County, Texas, about 14 miles South 30 degrees east from Gilmer, the county seat, and is bounded as follows: Bound on the North by the J. Manning Survey, A-314 the S.W. Beasley Survey A-66 and the David Meredith Survey A-315 and bound on the East by the M. Mann Survey, A-302 and by the M. Chandler Survey, A-84 and bound on the South by the G. W. Hooper Survey, A-657 and by the D. Ferguson Survey, A-158 and bound on the West by the J. R. Wadkins Survey, A-562 and the H. Alsup Survey, A-20, and by the W. Bratton Survey, A-57 and the G. H. Burroughs Survey, A-30 and the M. Tidwell Survey, A-498 of Upshur County, Texas.

Tract 2:

The second tract of land is situated in Smith County, Texas, north of Tyler and is bounded as follows: on the north and west by the S. Leeper A-559, the Frost Thorn Four League Grant A-3, A-9, A-7, A-19, and the H. Jacobs A-504 and on the south and east by the following surveys: John Carver A-247, A. Loverly A-609, J. Gimble A-408, R. Conner A-239, N.J. Blythe A-88, N.J. Blythe A-89, J. Choate A-195, Daniel Minor A-644, William Keys A-527, James H. Thomas A-971, Seaborn Smith A-899, and Samuel Leeper A-559.

(b) This section does not apply to:

(1) any public right-of-way, including a public road right-of-way, or related interest owned by a governmental entity;

(2) any navigable waterway or related interest owned by a governmental entity; or

(3) any land owned by a governmental entity and reserved for public use, including a park, recreation area, wildlife area, scientific area, or historic site.

(c) This section is self-executing.

(Adoption proposed by Acts 2005, 79th Leg., S.J.R. 40 (Prop. 8), approved by electorate at the November 8, 2005 election.)

§ 3. Taxes for Benefit of Schools; School Districts.

(a) One-fourth of the revenue derived from the State occupation taxes shall be set apart annually for the benefit of the public free schools.

(b) It shall be the duty of the State Board of Education to set aside a sufficient amount of available funds to provide free text books for the use of children attending the public free schools of this State.

(c) Should the taxation herein named be insufficient the deficit may be met by appropriation from the general funds of the State.

(d) The Legislature may provide for the formation of school districts by general laws, and all such school districts may embrace parts of two or more counties.

(e) The Legislature shall be authorized to pass laws for the assessment and collection of taxes in all school districts and for the management and control of the public school or schools of such districts, whether such districts are composed of territory wholly within a county or in parts of two or more counties, and the Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified voters of the district voting at an election to be held for that purpose, shall approve the tax.

(Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election).

Sec. 3a. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, § 1, approved by the electorate (Prop. 1) at the August 5, 1969 election.

§ 3-b. Independent School Districts and Junior College Districts; Taxes and Bonds; Changes in Boundaries.

No tax for the maintenance of public free schools voted in any independent school district and no tax for the maintenance of a junior college voted by a junior college district, nor any bonds voted in any such district, but unissued, shall be abrogated, cancelled or invalidated by change of any kind in the boundaries thereof. After any change in boundaries, the governing body of any such district, without the

necessity of an additional election, shall have the power to assess, levy and collect ad valorem taxes on all taxable property within the boundaries of the district as changed, for the purposes of the maintenance of public free schools or the maintenance of a junior college, as the case may be, and the payment of principal of and interest on all bonded indebtedness outstanding against, or attributable, adjusted or allocated to, such district or any territory therein, in the amount, at the rate, or not to exceed the rate, and in the manner authorized in the district prior to the change in its boundaries, and further in accordance with the laws under which all such bonds, respectively, were voted; and such governing body also shall have the power, without the necessity of an additional election, to sell and deliver any unissued bonds voted in the district prior to any such change in boundaries, and to assess, levy and collect ad valorem taxes on all taxable property in the district as changed, for the payment of principal of and interest on such bonds in the manner permitted by the laws under which such bonds were voted. In those instances where the boundaries of any such independent school district are changed by the annexation of, or consolidation with, one or more whole school districts, the taxes to be levied for the purposes hereinabove authorized may be in the amount or at not to exceed the rate theretofore voted in the district having at the time of such change the greatest scholastic population according to the latest scholastic census and only the unissued bonds of such district voted prior to such change, may be subsequently sold and delivered and any voted, but unissued, bonds of other school districts involved in such annexation or consolidation shall not thereafter be issued.

§ 4. Sale of Lands; Investment of Proceeds.

The lands herein set apart to the Permanent School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The proceeds of such sales must be used to acquire other land for the Permanent School fund as provided by law or the proceeds shall be invested by the comptroller of public accounts, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.
(Amended Aug. 14, 1883, Nov. 5, 1985, Nov. 7, 1995, and Nov. 8, 2011.)

Sec. 4A. Public Free School Fund Lands Held Fifty Years Under Color of Title; Application for Patent; Conditions; Excluded Lands [Repealed].

Repeal, approved by the electorate (Prop. 12) at the November 6, 2001 election.

§ 4B. Independent School District; Board of Trustees; Donation of Real Property and Improvements.

(a) The legislature by general law may authorize the board of trustees of an independent school district to donate district real property and improvements formerly used as a school campus for the purpose of preserving the improvements.

(b) A law enacted under this section must provide that before the board of trustees may make the donation, the board must determine that:

(1) the improvements have historical significance;

(2) the transfer will further the preservation of the improvements; and

(3) at the time of the transfer, the district does not need the real property or improvements for educational purposes.

(Amendment proposed by 2001 77th Leg., S.J.R. No. 2, approved by electorate at the November 6, 2001 election).

§ 5. Permanent School Fund; Available School Fund; Use of Funds; Distribution of Available School Fund.

(a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the

legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

(A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or

(B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and

(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

(b) The expenses of managing permanent school fund land and investments shall be paid by appropriation from the permanent school fund.

(c) The available school fund shall be applied annually to the support of the public free schools. Except as provided by this section, the legislature may not enact a law appropriating any part of the permanent school fund or available school fund to any other purpose. The permanent school fund and the available school fund may not be appropriated to or used for the support of any sectarian school. The available school fund shall be distributed to the several counties according to their scholastic population and applied in the manner provided by law.

(d) The legislature by law may provide for using the permanent school fund to guarantee bonds issued by school districts or by the state for the purpose of making loans to or purchasing the bonds of school districts for the purpose of acquisition, construction, or improvement of instructional facilities including all furnishings thereto. If any payment is required to be made by the permanent school fund as a result of its guarantee of bonds issued by the state, an amount equal to this payment shall be immediately paid by the state from the treasury to the permanent school fund. An amount owed by the state to the permanent school fund under this section shall be a general obligation of the state until paid. The amount of bonds authorized hereunder shall not exceed $750 million or a higher amount authorized by a two-thirds record vote of both houses of the legislature. If the proceeds of bonds issued by the state are used to provide a loan to a school district and the district becomes delinquent on the loan payments, the amount of the delinquent payments shall be offset against state aid to which the district is otherwise entitled.

(e) The legislature may appropriate part of the available school fund for administration of a bond guarantee program established under this section.

(f) Notwithstanding any other provision of this constitution, in managing the assets of the permanent school fund, the State Board of Education may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment, including investments in the Texas growth fund created by Article XVI, Section 70, of this constitution, that persons of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances then prevailing, acquire or retain for their own account in the management of their affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(g) Notwithstanding any other provision of this constitution or of a statute, the General Land Office or an entity other than the State Board of Education that has responsibility for the management of permanent school fund land or other properties may in its sole discretion distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed $300 million each year.

(h) [Expired pursuant to Acts 2003, 78th Leg., H.J.R. No. 68, § 2, effective December 1, 2006.] (Amendment proposed by Acts 2003, 78th Leg., H.J.R. No. 68, approved by the electorate (Prop. 9) at the September 13, 2003 election; amendment proposed by Acts 2011, 82nd Leg., H.J.R. No. 109, § 3; approved by the electorate (Prop. 6) at the election held November 8, 2011).

§ 6. County School Lands; Proceeds of Sales; Investment; Available School Funds.

All lands heretofore, or hereafter granted to the several counties of this State for educational purposes, are of right the property of said counties respectively, to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the Commissioners Court of the county. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon,

and other revenue, except the principal shall be available fund.
(Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election).

§ 6a. County Agricultural or Grazing School Land Subject to Tax.

All agriculture or grazing school land mentioned in Section 6 of this article owned by any county shall be subject to taxation except for State purposes to the same extent as lands privately owned.

§ 6b. Reduction of County Permanent School Fund; Distribution.

Notwithstanding the provisions of Section 6, Article VII, Constitution of the State of Texas, any county, acting through the commissioners court, may reduce the county permanent school fund of that county and may distribute the amount of the reduction to the independent and common school districts of the county on a per scholastic basis to be used solely for the purpose of reducing bonded indebtedness of those districts or for making permanent improvements. The commissioners court shall, however, retain a sufficient amount of the corpus of the county permanent school fund to pay ad valorem taxes on school lands or royalty interests owned at the time of the distribution. Nothing in this Section affects financial aid to any school district by the state.

Sec. 7. [Repealed].

Repeal proposed by Acts 1969, 61st Leg., H.J.R. No. 3, approved by the electorate (Prop. 1) at the August 5, 1969 election.

§ 8. State Board of Education.

The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law.

§ 16-a. Terms of Office.

The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years.
(Amendment proposed by 1997 75th Leg., H.J.R. No. 104, approved by electorate at the November 4, 1997 election).

§ 19. Texas Tomorrow Fund.

(a) The Texas tomorrow fund is created as a trust fund dedicated to the prepayment of tuition and fees for higher education as provided by the general laws of this state for the prepaid higher education tuition program. The assets of the fund are held in trust for the benefit of participants and beneficiaries and may not be diverted. The state shall hold the assets of the fund for the exclusive purposes of providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the program.

(b) Financing of benefits must be based on sound actuarial principles. The amount contributed by a person participating in the prepaid higher education program shall be as provided by the general laws of this state, but may not be less than the amount anticipated for tuition and required fees based on sound actuarial principles. If in any fiscal year there is not enough money in the Texas tomorrow fund to pay the tuition and required fees of an institution of higher education in which a beneficiary enrolls or the appropriate portion of the tuition and required fees of a private or independent institution of higher education in which a beneficiary enrolls as provided by a prepaid tuition contract, there is appropriated out of the first money coming into the state treasury in each fiscal year not otherwise appropriated by the constitution the amount that is sufficient to pay the applicable amount of tuition and required fees of the institution.

(c) Assets of the fund may be invested by an entity designated by general law in securities considered prudent investments. Investments shall be made in the exercise of judgment and care under the circumstances that a person of ordinary prudence, discretion, and intelligence exercises in the management of the person's affairs, not for speculation, but for the permanent disposition of funds, considering the probable income from the disposition as well as the probable safety of capital.

(d) The state comptroller of public accounts shall take the actions necessary to implement this section.

(e) To the extent this section conflicts with any other provision of this constitution, this section controls.
(Amendment proposed by 1997 75th Leg., H.J.R. No. 8, approved by electorate at the November 4, 1997 election).

ARTICLE VIII

Taxation

§ 1. Equality and Uniformity; Tax in Proportion to Value; Income Tax Exemp-

tion of Certain Tangible Personal Property from Ad Valorem Taxation.

(a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. Subject to the restrictions of Section 24 of this article, it may also tax incomes of both natural persons and corporations other than municipal. Persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of a family or single adult, "personal property homestead" meaning that personal property exempt by law from forced sale for debt;

(2) subject to Subsections (e) and (g) of this section, all other tangible personal property, except structures which are substantially affixed to real estate and are used or occupied as residential dwellings and except property held or used for the production of income;

(3) subject to Subsection (e) of this section, a leased motor vehicle that is not held primarily for the production of income by the lessee and that otherwise qualifies under general law for exemption; and

(4) one motor vehicle, as defined by general law, owned by an individual that is used in the course of the individual's occupation or profession and is also used for personal activities of the owner that do not involve the production of income.

(e) The governing body of a political subdivision may provide for the taxation of all property exempt under a law adopted under Subdivision (2) or (3) of Subsection (d) of this section and not exempt from ad valorem taxation by any other law. The Legislature by general law may provide limitations to the application of this subsection to the taxation of vehicles exempted under the authority of Subdivision (3) of Subsection (d) of this section.

(f) The occupation tax levied by any county, city or town for any year on persons or corporations pursuing any profession or business, shall not exceed one half of the tax levied by the State for the same period on such profession or business.

(g) The Legislature may exempt from ad valorem taxation tangible personal property that is held or used for the production of income and has a taxable value of less than the minimum amount sufficient to recover the costs of the administration of the taxes on the property, as determined by or under the general law granting the exemption.

(h) The Legislature may exempt from ad valorem taxation a mineral interest that has a taxable value of less than the minimum amount sufficient to recover the costs of the administration of the taxes on the interest, as determined by or under the general law granting the exemption.

(i) Notwithstanding Subsections (a) and (b) of this section, the Legislature by general law may limit the maximum appraised value of a residence homestead for ad valorem tax purposes in a tax year to the lesser of the most recent market value of the residence homestead as determined by the appraisal entity or 110 percent, or a greater percentage, of the appraised value of the residence homestead for the preceding tax year. A limitation on appraised values authorized by this subsection:

(1) takes effect as to a residence homestead on the later of the effective date of the law imposing the limitation or January 1 of the tax year following the first tax year the owner qualifies the property for an exemption under Section 1-b of this article; and

(2) expires on January 1 of the first tax year that neither the owner of the property when the limitation took effect nor the owner's spouse or surviving spouse qualifies for an exemption under Section 1-b of this article.

(i-1) [Expired pursuant to Acts 2003, 78th Leg., S.J.R. No. 25, § 3, effective January 1, 2005.]

(j) The Legislature by general law may provide for the taxation of real property that is the residence homestead of the property owner solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner is considered to be the highest and best use of the property.

(j-1) [Expired pursuant to Acts 2001, 77th Leg., H.J.R. No. 44, § 1, effective January 1, 2004.]

(Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 31, approved by electorate (Prop. 12) at the November 7, 1995 election; amendment proposed by Acts 1997, 75th Leg., S.J.R. No. 43, approved by electorate (Prop. 2) at the November 4, 1997 election; amendment proposed by Acts 1999, 76th Leg., S.J.R. No. 21, approved by electorate (Prop. 12) at the November 2, 1999 election. Amend-

ment proposed by Acts 2001, 77th Leg., H.J.R. No. 44, approved by electorate at the November 6, 2001 election; amendment proposed by Acts 2003, 78th Leg., S.J.R. No. 25, approved by the electorate (Prop. 5) at the September 13, 2003 election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 40, approved by the electorate (Prop. 3) at the November 6, 2007 election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 54, approved by the electorate (Prop. 6) at the November 6, 2007 election; amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 36, § 1.01, approved by the electorate (Prop. 2) at the November 3, 2009 election.)

§ 1-b. Residence Homestead Exemption.

(a) Three Thousand Dollars ($3,000) of the assessed taxable value of all residence homesteads of married or unmarried adults, male or female, including those living alone, shall be exempt from all taxation for all State purposes.

(b) The governing body of any county, city, town, school district, or other political subdivision of the State may exempt by its own action not less than Three Thousand Dollars ($3,000) of the market value of residence homesteads of persons, married or unmarried, including those living alone, who are under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance or its successor or of married or unmarried persons sixty-five (65) years of age or older, including those living alone, from all ad valorem taxes thereafter levied by the political subdivision. As an alternative, upon receipt of a petition signed by twenty percent (20%) of the voters who voted in the last preceding election held by the political subdivision, the governing body of the subdivision shall call an election to determine by majority vote whether an amount not less than Three Thousand Dollars ($3,000) as provided in the petition, of the market value of residence homesteads of disabled persons or of persons sixty-five (65) years of age or over shall be exempt from ad valorem taxes thereafter levied by the political subdivision. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from the same political subdivision in the same year but may choose either if the subdivision has adopted both. Where any ad valorem tax has theretofore been pledged for the payment of any debt, the taxing officers of the political subdivision shall have authority to continue to levy and collect the tax against the homestead property at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created.

(c) Fifteen Thousand Dollars ($15,000) of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principle school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed Ten Thousand Dollars ($10,000) of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person sixty- five (65) years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons sixty-five (65) years of age or older on economic need. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives a residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons who are sixty-five (65) years of age or older or who are disabled, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary

public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. If a person sixty-five (65) years of age or older dies in a year in which the person received the exemption, the total amount of ad valorem taxes imposed on the homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead. However, taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements and except as may be consistent with the transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to $10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.

(d-1) Notwithstanding Subsection (d) of this section, the legislature by general law may provide for the reduction of the amount of a limitation provided by that subsection and applicable to a residence homestead for the 2007 tax year to reflect any reduction from the 2006 tax year in the tax rate for general elementary and secondary public school purposes applicable to the homestead. A general law enacted under this subsection may also take into account any reduction in the tax rate for those purposes from the 2005 tax year to the 2006 tax year if the homestead was subject to the limitation in the 2006 tax year. A general law enacted under this subsection may provide that, except as otherwise provided by Subsection (d) of this section, a limitation provided by that subsection that is reduced under the general law continues to apply to the residence homestead in subsequent tax years until the limitation expires.

(e) The governing body of a political subdivision, other than a county education district, may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. In the manner provided by law, the voters of a county education district at an election held for that purpose may exempt from ad valorem taxation a percentage of the market value of the residence homestead of a married or unmarried adult, including one living alone. The percentage may not exceed twenty percent. However, the amount of an exemption authorized pursuant to this subsection may not be less than Five Thousand Dollars ($5,000) unless the legislature by general law prescribes other monetary restrictions on the amount of the exemption. An eligible adult is entitled to receiveother applicable exemptions provided by law. Where ad valorem tax has previously been pledged for the payment of debt, the governing body of a political subdivision may continue to levy and collect the tax against the value of the homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature by general law may prescribe procedures for the administration of residence homestead exemptions.

(e-1) Expired pursuant to Acts 1981, 67th Leg., H.J.R. No. 81, § 1, effective January 2, 1982.

(f) The surviving spouse of a person who received an exemption under Subsection (b) of this section for the residence homestead of a person sixty-five (65) years of age or older is entitled to an exemption for the same property from the same political subdivision in an amount equal to that of the exemption received by the deceased spouse if the deceased spouse died in a year in which the deceased spouse received the exemption, the surviving spouse was fifty-five (55) years of age or older when the deceased spouse died, and the property was the residence homestead of the surviving spouse when the deceased spouse died and remains the residence homestead of the surviving spouse. A person who receives an exemption under Subsection (b) of this section is not entitled to an exemption under this subsection. The legislature by general law may prescribe procedures for the administration of this subsection.

(g) If the legislature provides for the transfer of all or a proportionate amount of a tax limitation provided by Subsection (d) of this section for a person who qualifies for the limitation and subsequently establishes a different residence homestead, the legislature by general law may authorize the governing body of a school district to elect to apply the law providing for the transfer of the tax limitation to a change of a person's residence homestead that occurred before that law took effect, subject to any restrictions provided by general law. The transfer of the limitation may apply only to taxes imposed in a tax year that begins after the tax year in which the election is made.

(h) The governing body of a county, a city or town, or a junior college district by official action may provide that if a person who is disabled or is sixty-five (65) years of age or older receives a residence homestead exemption prescribed or authorized by this section, the total amount of ad valorem taxes imposed on that homestead by the county, the city or town, or the junior college district may not be increased while it remains the residence homestead of that person or that person's spouse who is disabled or sixty-five (65) years of age or older and receives a residence homestead exemption on the homestead. As an alternative, on receipt of a petition signed by five percent (5%) of the registered voters of the county, the city or town, or the junior college district, the governing body of the county, the city or town, or the junior college district shall call an election to determine by majority vote whether to establish a tax limitation provided by this subsection. If a county, a city or town, or a junior college district establishes a tax limitation provided by this subsection and a disabled person or a person sixty-five (65) years of age or older dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the homestead by the county, the city or town, or the junior college district may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a tax limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead within the same county, within the same city or town, or within the same junior college district. A county, a city or town, or a junior college district that establishes a tax limitation under this subsection must comply with a law providing for the transfer of the limitation, even if the legislature enacts the law subsequent to the county's, the city's or town's, or the junior college district's establishment of the limitation. Taxes otherwise limited by a county, a city or town, or a junior college district under this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements and except as may be consistent with the transfer of a tax limitation under a law authorized by this subsection. The governing body of a county, a city or town, or a junior college district may not repeal or rescind a tax limitation established under this subsection.

(i) The legislature by general law may exempt from ad valorem taxation all or part of the market value of the residence homestead of a disabled veteran who is certified as having a service-connected disability with a disability rating of 100 percent or totally disabled and may provide additional eligibility requirements for the exemption. For purposes of this subsection, "disabled veteran" means a disabled veteran as described by Section 2(b) of this article.

(j) **[2 Versions: Contingent Upon Voter Approval—See Editor's Notes]** The legislature by general law may provide that the surviving spouse of a 100 percent or totally disabled veteran who qualified for an exemption in accordance with Subsection (i) of this section from ad valorem taxation of all or part of the market value of the disabled veteran's residence homestead when the disabled veteran died is entitled to an exemption from ad valorem taxation of the same portion of the market value of the same property to which the disabled veteran's exemption applied if:

(1) the surviving spouse has not remarried since the death of the disabled veteran; and

(2) the property:

(A) was the residence homestead of the surviving spouse when the disabled veteran died; and

(B) remains the residence homestead of the surviving spouse.

(j) **[2 Versions: As amended by H.J.R. No. 24, Contingent Upon Voter Approval—See Editor's Notes]** The legislature by general law may provide that the surviving spouse of a disabled veteran who qualified for an exemption in accordance with Subsection (i) or (l) of this section from ad valorem taxation of all or part of the market value of the disabled veteran's residence homestead when the disabled veteran died is entitled to an exemption from ad valorem taxation of the same portion of the market value of the same property to which the disabled veteran's exemption applied if:

(1) the surviving spouse has not remarried since the death of the disabled veteran; and

(2) the property:

(A) was the residence homestead of the surviving spouse when the disabled veteran died; and

(B) remains the residence homestead of the surviving spouse.

(k) The legislature by general law may provide that if a surviving spouse who qualifies for an exemption in accordance with Subsection (j) of this section subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from ad

valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the former homestead in accordance with Subsection (j) of this section in the last year in which the surviving spouse received an exemption in accordance with that subsection for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.

(*l*) **[2 Versions: As added by H.J.R. No. 24, Contingent Upon Voter Approval—See Editor's Note]** The legislature by general law may provide that a partially disabled veteran is entitled to an exemption from ad valorem taxation of a percentage of the market value of the disabled veteran's residence homestead that is equal to the percentage of disability of the disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the disabled veteran. The legislature by general law may provide additional eligibility requirements for the exemption. For purposes of this subsection, "partially disabled veteran" means a disabled veteran as described by Section 2(b) of this article who is certified as having a disability rating of less than 100 percent. A limitation or restriction on a disabled veteran's entitlement to an exemption under Section 2(b) of this article, or on the amount of an exemption under Section 2(b), does not apply to an exemption under this subsection.

(*l*) **[2 Versions: As added by H.J.R. No. 62, Contingent Upon Voter Approval—See Editor's Note]** The legislature by general law may provide that the surviving spouse of a member of the armed services of the United States who is killed in action is entitled to an exemption from ad valorem taxation of all or part of the market value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services.

(m) **[As added by H.J.R. No. 62, Contingent Upon Voter Approval—See Editor's Note]** The legislature by general law may provide that a surviving spouse who qualifies for and receives an exemption in accordance with Subsection (l) of this section and who subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to an exemption from ad valorem taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from ad valorem taxation of the first homestead for which the exemption was received in accordance with Subsection (l) of this section in the last year in which the surviving spouse received the exemption in accordance with that subsection for that homestead if the surviving spouse has not remarried since the death of the member of the armed services.

(Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 64, approved by electorate (Prop. 6) at the November 7, 1995 election; amendment proposed by Acts 1997, 75th Leg., H.J.R. No. 4, approved by electorate (Prop. 1) at the August 9, 1997 election; amendment proposed by Acts 1997, 75th Leg., S.J.R. No. 43, approved by electorate (Prop. 2) at the November 4, 1997 election; amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election; amendment proposed by Acts 2003, 78th Leg., H.J.R. Nos. 16 and 21, approved by electorate (Props. 13 and 17) at the September 13, 2003 election; amendment proposed by Acts 2007, 80th Leg., S.J.R. No. 13, approved by electorate (Prop. 1) at the May 12, 2007 election; amendment proposed by Acts 2007, 80th Leg., S.J.R. No. 29, approved by the electorate (Prop. 9) at the November 6, 2007 election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 14, § 1; approved by the electorate (Prop. 1) at the election held November 8, 2011; amendment proposed by Acts 2013, 83rd Leg., H.J.R. No. 24, § 1; amendment proposed by Acts 2013, 83rd Leg., H.J.R. No. 62, § 1.)

STATUTORY NOTES

Editor's notes. — Acts 2013, 83rd Leg., H.J.R. No. 24, § 2 provides: "This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: 'The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of part of the market value of the residence homestead of a partially disabled veteran or the surviving spouse of a partially disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization.'"

Acts 2013, 83rd Leg., H.J.R. No. 62, § 3 provides: "This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: 'The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action.'"

Acts 2013, 83rd Leg., H.J.R. No. 62, § 2 provides: "The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action.

(b) Sections 1-b(l) and (m), Article VIII, of this constitution take effect January 1, 2014, and apply only to a tax year beginning on or after that date.

(c) This temporary provision expires January 1, 2015."

Sec. 1-b-1. Reference to County Education Districts [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. No. 62, § 55(2), approved by the electorate (Prop. 3) at the November 2, 1999 election.

Sec. 1-c. Effectiveness of Resolution [Repealed].

Repeal proposed by Acts 1999, 76th Leg., H.J.R. No. 62, § 55(2), approved by the electorate (Prop. 3) at the November 2, 1999 election.

§ 1-d. Assessment of Lands Designated for Agricultural Use.

(a) All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use. "Agricultural use" means the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit, which business is the primary occupation and source of income of the owner.

(b) For each assessment year the owner wishes to qualify his land under provisions of this Section as designated for agricultural use he shall file with the local tax assessor a sworn statement in writing describing the use to which the land is devoted.

(c) Upon receipt of the sworn statement in writing the local tax assessor shall determine whether or not such land qualifies for the designation as to agricultural use as defined herein and in the event it so qualifies he shall designate such land as being for agricultural use and assess the land accordingly.

(d) Such local tax assessor may inspect the land and require such evidence of use and source of income as may be necessary or useful in determining whether or not the agricultural use provision of this article applies.

(e) No land may qualify for the designation provided for in this Act unless for at least three (3) successive years immediately preceding the assessment date the land has been devoted exclusively for agricultural use, or unless the land has been continuously developed for agriculture during such time.

(f) Each year during which the land is designated for agricultural use, the local tax assessor shall note on his records the valuation which would have been made had the land not qualified for such designation under this Section. If designated land is subsequently diverted to a purpose other than that of agricultural use, or is sold, the land shall be subject to an additional tax. The additional tax shall equal the difference between taxes paid or payable, hereunder, and the amount of tax payable for the preceding three years had the land been otherwise assessed. Until paid, there shall be a lien for additional taxes and interest on land assessed under the provisions of this Section.

(g) The valuation and assessment of any minerals or subsurface rights to minerals shall not come within the provisions of this Section.

§ 1-d-1. Taxation of Certain Open-Space Land.

(a) To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm, ranch, or wildlife management purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

(b) If a property owner qualifies his land for designation for agricultural use under Section 1-d of this article, the land is subject to the provisions of Section 1-d for the year in which the designation is effective and is not subject to a law enacted under this Section 1-d-1 in that year.

(Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 72, approved by electorate (Prop. 11) at the November 7, 1995 election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 16, was not approved by the electorate (Prop. 8) at the November 8, 2011 election).

§ 1-e. Abolition of Ad Valorem Property Taxes.

No State ad valorem taxes shall be levied upon any property within this State.

(Amendment proposed by 2001 77th Leg., H.J.R. No. 75, approved by electorate at the November 6, 2001 election).

§ 2. Occupation Taxes; Equality and Uniformity; Exemptions from Taxation.

(a) All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship, also any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land; any property owned by a church or by a strictly religious society that owns an actual place of religious worship if the property is owned for the purpose of expansion of the place of religious worship or construction of a new place of religious worship and the property yields no revenue

whatever to the church or religious society, provided that the legislature by general law may provide eligibility limitations for the exemption and may impose sanctions related to the exemption in furtherance of the taxation policy of this subsection; any property that is owned by a church or by a strictly religious society and is leased by that church or strictly religious society to a person for use as a school, as defined by Section 11.21, Tax Code, or a successor statute, for educational purposes; places of burial not held for private or corporate profit; solar or wind-powered energy devices; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools and property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a State or National organization of like character; also the endowment funds of such institutions of learning and religion not used with a view to profit; and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be bought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages, that such exemption of such land and property shall continue only for two years after the purchase of the same at such sale by such institutions and no longer, and institutions engaged primarily in public charitable functions, which may conduct auxiliary activities to support those charitable functions; and all laws exempting property from taxation other than the property mentioned in this Section shall be null and void.

(b) The Legislature may, by general law, exempt property owned by a disabled veteran or by the surviving spouse and surviving minor children of a disabled veteran. A disabled veteran is a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or by a successor to that agency or by the military service in which the veteran served. A veteran who is certified as having a disability of less than 10 percent is not entitled to an exemption. A veteran having a disability rating of not less than 10 percent but less than 30 percent may be granted an exemption from taxation for property valued at up to $5,000. A veteran having a disability rating of not less than 30 percent but less than 50 percent may be granted an exemption from taxation for property valued at up to $7,500. A veteran having a disability rating of not less than 50 percent but less than 70 percent may be granted an exemption from taxation for property valued at up to $10,000. A veteran who has a disability rating of 70 percent or more, or a veteran who has a disability rating of not less than 10 percent and has attained the age of 65, or a disabled veteran whose disability consists of the loss or loss of use of one or more limbs, total blindness in one or both eyes, or paraplegia, may be granted an exemption from taxation for property valued at up to $12,000. The spouse and children of any member of the United States Armed Forces who dies while on active duty may be granted an exemption from taxation for property valued at up to $5,000. A deceased disabled veteran's surviving spouse and children may be granted an exemption which in the aggregate is equal to the exemption to which the veteran was entitled when the veteran died.

(c) The Legislature by general law may exempt from ad valorem taxation property that is owned by a nonprofit organization composed primarily of members or former members of the armed forces of the United States or its allies and chartered or incorporated by the United States Congress.

(d) Unless otherwise provided by general law enacted after January 1, 1995, the amounts of the exemptions from ad valorem taxation to which a person is entitled under Section 11.22, Tax Code, for a tax year that begins on or after the date this subsection takes effect are the maximum amounts permitted under Subsection (b) of this section instead of the amounts specified by Section 11.22, Tax Code. This subsection may be repealed by the Legislature by general law.

(Amendment proposed by Acts 1995, 74th Leg., H.J.R. No. 68, approved by electorate (Prop. 14) at the November 7, 1995 election; amendment effective January 1, 2000, proposed by Acts 1999, 76th Leg., H.J.R. No. 4, approved by electorate (Prop. 4) at the November 2, 1999 election; amendment proposed by Acts 2003, H.J.R. No. 55, approved by electorate (Prop. 3) at the September 13, 2003 election; amendment proposed by Acts 2007, 80th Leg., S.J.R. 29, approved by the electorate (Prop. 9) at the November 6, 2007 election.)

§ 3. General Laws; Public Purposes.

Taxes shall be levied and collected by general laws and for public purposes only.

§ 9. Maximum State Tax County, City, and Town Levies; County Funds; Local Road Laws.

(a) No county, city or town shall levy a tax rate in excess of Eighty Cents (80¢) on the One Hundred Dollars ($100) valuation in any one (1) year for general fund, permanent improvement fund, road and bridge fund and jury fund purposes.

(b) At the time the Commissioners Court meets to levy the annual tax rate for each county it shall levy

whatever tax rate may be needed for the four (4) constitutional purposes; namely, general fund, permanent improvement fund, road and bridge fund and jury fund so long as the Court does not impair any outstanding bonds or other obligations and so long as the total of the foregoing tax levies does not exceed Eighty Cents (80¢) on the One Hundred Dollars ($100) valuation in any one (1) year. Once the Court has levied the annual tax rate, the same shall remain in force and effect during that taxable year.

(c) The Legislature may authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified voters of the county voting at an election to be held for that purpose shall approve the tax, not to exceed Fifteen Cents (15) on the One Hundred Dollars ($100) valuation of the property subject to taxation in such county.

(d) Any county may put all tax money collected by the county into one general fund, without regard to the purpose or source of each tax.

(e) The Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws.

(f) This Section shall not be construed as a limitation of powers delegated to counties, cities or towns by any other Section or Sections of this Constitution.

(Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election).

§ 10. Release from Payment of Taxes.

The Legislature shall have no power to release the inhabitants of, or property in, any county, city or town from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city or town, when such release may be made by a vote of two-thirds of each House of the Legislature.

§ 18. Equalization of Valuations; Single Appraisal.

(a) The Legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, and may also provide for the classification of all lands with reference to their value in the several counties.

(b) A single appraisal within each county of all property subject to ad valorem taxation by the county and all other taxing units located therein shall be provided by general law. The Legislature, by general law, may authorize appraisals outside a county when political subdivisions are situated in more than one county or when two or more counties elect to consolidate appraisal services.

(c) The Legislature, by general law, shall provide for a single board of equalization for each appraisal entity consisting of qualified persons residing within the territory appraised by that entity. The Legislature, by general law, may authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations. Members of a board of equalization may not be elected officials of a county or of the governing body of a taxing unit.

(d) The Legislature shall prescribe by general law the methods, timing, and administrative process for implementing the requirements of this section.

(Amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 36, § 2.01, approved by the electorate (Prop. 5) at the November 3, 2009 election).

§ 19. Farm Products, Livestock, Poultry, and Family Supplies; Exemption.

Farm products, livestock, and poultry in the hands of the producer, and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

§ 20. Fair Cash Market Value Not to Be Exceeded; Discounts for Advance Payment.

No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value nor shall any Board of Equalization of any governmental or political subdivision or taxing district within this State fix the value of any property for tax purposes at more than its fair cash market value; provided that in order to encourage the prompt payment of taxes, the Legislature shall have the power to provide that the taxpayer shall be allowed by the State and all governmental and political subdivisions and taxing districts of the State a three per cent (3%) discount on ad valorem taxes due the State or due any governmental or political subdivision or taxing district of the State if such taxes are paid ninety (90) days before the date when they would otherwise become delinquent; and the taxpayer shall be allowed a two per cent (2%) discount on said taxes if paid sixty (60) days before said taxes would become delinquent; and the taxpayer shall be allowed a one per cent (1%) discount if said taxes are paid thirty (30) days before they would otherwise become delinquent. The Legislature shall pass necessary laws for the proper administration of this Section.

(Amendment proposed by 1999 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 election).

ARTICLE XVI

General Provisions

§ 1. Official Oath.

(a) All elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation:

"I, _____ , do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God."

(b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement:

"I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God."

(c) Members of the Legislature, the Secretary of State, and all other elected and appointed state officers shall file the signed statement required by Subsection (b) of this section with the Secretary of State before taking the Oath or Affirmation of office prescribed by Subsection (a) of this section. All other officers shall retain the signed statement required by Subsection (b) of this section with the official records of the office.

(Amendment proposed by Acts 2001, 77th Leg., H.J.R. No. 75, approved by the electorate (Prop. 12) at the November 6, 2001 election).

§ 14. Civil Officers; Residence; Location of Office.

All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

§ 17. Officers to Serve Until Successors Qualified.

All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

§ 40. Holding More Than One Office; Exceptions; Right to Vote.

(a) No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, Officer of the National Guard, the National Guard Reserve, and the Officers Reserve Corps of the United States and enlisted men of the National Guard, the National Guard Reserve, and the Organized Reserves of the United States, and retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers and enlisted members of the Texas State Guard and any other active militia or military force organized under state law, and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit an officer or enlisted man of the National Guard, the National Guard Reserve, the Texas State Guard, and any other active militia or military force organized under state law, or an officer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States, or retired officers of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and retired warrant officers, and retired enlisted men of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard, and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.

(b) State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts. Such State employees or other individuals may not receive a salary for serving as members of such governing bodies, except that:

(1) a schoolteacher, retired schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district, city, town, or local governmental district, including a water district created under Section 59, Article XVI, or Section 52, Article III; and

(2) a faculty member or retired faculty member of a public institution of higher education may

receive compensation for serving as a member of a governing body of a water district created under Section 59 of this article or under Section 52, Article III, of this constitution.

(c) It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation.

(d) No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

(Amendment proposed by 1997 75th Leg., S.J.R. No. 36, approved by electorate at the November 4, 1997 election; amendment proposed by 1999 76th Leg., S.J.R. No. 26, was not approved by electorate (Prop. 5) at the November 2, 1999 election; amendment proposed by 2001 77th Leg., H.J.R. No. 85, approved by electorate at the November 6, 2001 election; amendment proposed by 2003 78th Leg., S.J.R. No. 19, approved by electorate at the September 13, 2003 election; amendment proposed by Acts 2009, 81st Leg., H.J.R. No. 127, § 1, approved by the electorate (Prop. 7) at the November 3, 2009 election).

§ 65. Terms of Office; Automatic Resignation.

(a) This section applies to the following offices: District Clerks; County Clerks; County Judges; Judges of the County Courts at Law, County Criminal Courts, County Probate Courts and County Domestic Relations Courts; County Treasurers; Criminal District Attorneys; County Surveyors; County Commissioners; Justices of the Peace; Sheriffs; Assessors and Collectors of Taxes; District Attorneys; County Attorneys; Public Weighers; and Constables.

(b) If any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one year and 30 days, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

(Amendment proposed by Acts 1999, 76th Leg., H.J.R. No. 62, approved by electorate (Prop. 3) at the November 2, 1999 constitutional amendment election; amendment proposed by Acts 2007, 80th Leg., H.J.R. No. 69, approved by the electorate (Prop. 10) at the November 6, 2007 election; amendment proposed by Acts 2011, 82nd Leg., S.J.R. No. 37, approved by the electorate (Prop. 10) at the November 8, 2011 election.)

User's Guide to the Index

Two guidelines for using this index are:

(1) *Consult the most pertinent subject.* For example, if you were looking in an evidence book for information about depositions, you would start with DEPOSITIONS rather than broader headings like EVIDENCE, TESTIMONY or WITNESSES. The broader headings may also exist, but to find the material more quickly, look for the specific subject first.

(2) *Cross references.* Pay close attention to and make full use of the index cross references. An index cross reference directs the index user to go to another part of the index to find treatment.

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