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Chief Clerk of the House

FILED MAR 10 2003

By: _____

H.B. No. 2062

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Texas Department of Insurance and the Texas Commission on Environmental Quality and including certain functions transferred from the department to the Department of Public Safety.

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

ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 1.001. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2015 [~~2003~~].

SECTION 1.002. Subchapter A, Chapter 51, Occupations Code, is amended by adding Section 51.003 to read as follows:

Sec. 51.003. APPLICABILITY. This chapter applies to each regulatory program administered by the department, including any program under which a license is issued by the department.

SECTION 1.003. Section 51.052(a), Occupations Code, is amended to read as follows:

(a) The commission consists of five [~~six~~] members appointed by the governor with the advice and consent of the senate.

SECTION 1.004. Section 51.053(b), Occupations Code, is amended to read as follows:

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

(1) is regulated by the department;

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

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

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

(5) [~~is an officer, employee, or paid consultant of a trade association in a field regulated by the department;~~

[~~(6)~~] is an employee of the department[~~; or~~

[~~(7) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission or department~~].

SECTION 1.005. Subchapter B, Chapter 51, Occupations Code, is amended by adding Section 51.0535 to read as follows:

Sec. 51.0535. CONFLICT OF INTEREST. (a) In this section,

"Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the department; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the department.

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

SECTION 1.006. Subchapter B, Chapter 51, Occupations Code, is amended by adding Section 51.054 to read as follows:

Sec. 51.054. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote,

deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the commission;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for

the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.007. Section 51.055(a), Occupations Code, is amended to read as follows:

(a) Members of the commission serve staggered six-year terms. The terms of one or two members expire on February 1 of each odd-numbered year.

SECTION 1.008. Section 51.056(a), Occupations Code, is amended to read as follows:

(a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor [~~commission shall elect one of its members as presiding officer. The presiding officer serves in that capacity for a period of two years~~].

SECTION 1.009. Sections 51.057(a) and (c), Occupations Code, are amended to read as follows:

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

(1) does not have at the time of taking office [~~appointment~~] the qualifications required by Section 51.053 [~~for appointment to the commission~~];

(2) does not maintain during service on the commission the qualifications required by Section 51.053 [~~for appointment to the commission~~];

(3) is ineligible for membership under [~~violates a prohibition established by~~] Section 51.0535 [~~51.053~~]; [~~or~~]

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by a majority vote of the commission.

(c) If [~~a commission member or~~] the executive director has knowledge that a potential ground for removal exists, the [~~member or~~] executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.010. Section 51.105, Occupations Code, is amended to read as follows:

Sec. 51.105. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making [~~define the respective~~] responsibilities of the commission and the management responsibilities of[~~,~~] the executive director[~~,~~] and the staff of the department.

SECTION 1.011. Subchapter C, Chapter 51, Occupations Code, is amended by adding Section 51.106 to read as follows:

Sec. 51.106. INFORMATION ON STANDARDS OF CONDUCT. The

executive director or the executive director's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 1.012. Section 51.108, Occupations Code, is amended to read as follows:

Sec. 51.108. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of [~~to assure implementation of an~~] equal employment opportunity to ensure that [~~program under which~~] all personnel decisions [~~transactions~~] are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating [~~related~~] to recruitment, evaluation, selection, [~~appointment,~~] training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law [~~a comprehensive analysis of the department workforce that meets federal and state guidelines;~~

[~~(3) procedures by which a determination can be made~~

~~of significant underuse in the department workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

[~~(4) reasonable methods to appropriately address those areas of significant underuse~~].

(c) The [~~(b) A~~] policy statement [~~prepared under Subsection (a)~~] must:

(1) [~~cover an annual period,~~] be updated [~~at least~~] annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1);[~~,~~] and

(3) be filed with the governor's office [~~governor~~].

SECTION 1.013. Subchapter C, Chapter 51, Occupations Code, is amended by adding Section 51.109 to read as follows:

Sec. 51.109. STATE EMPLOYEE INCENTIVE PROGRAM. The executive director or the executive director's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 1.014. Sections 51.203 and 51.204, Occupations Code, are amended to read as follows:

Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY DEPARTMENT [~~ADOPTED BY EXECUTIVE DIRECTOR~~]. The commission [~~executive director~~] shall adopt rules as necessary to implement each law establishing a program regulated by the department.

Sec. 51.204. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission [~~executive director~~] may not adopt

rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) The commission [~~executive director~~] may not include in rules to prohibit false, misleading, or deceptive practices by a license holder a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the license holder's personal appearance or the use of the license holder's voice in an advertisement;

(3) relates to the size or duration of an advertisement; or

(4) restricts the use of a trade name in advertising.

SECTION 1.015. Subchapter D, Chapter 51, Occupations Code, is amended by adding Sections 51.207 and 51.208 to read as follows:

Sec. 51.207. USE OF TECHNOLOGY. The commission shall develop and implement a policy requiring the executive director and department employees to research and propose appropriate technological solutions to improve the department's ability to perform its functions. The technological solutions must:

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

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

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

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

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

Sec. 51.208. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

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

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

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

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

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

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

SECTION 1.016. Section 51.252, Occupations Code, is amended to read as follows:

Sec. 51.252. COMPLAINTS. (a) The executive director shall

establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution.

(b) The department shall maintain a [~~keep an information~~] file on [~~about~~] each written complaint filed with the department [~~that the commission or executive director has authority to resolve~~]. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(c) The [~~If a written complaint is filed that the commission or executive director has authority to resolve, the~~] department, at least quarterly and until final disposition of the complaint, shall notify the person filing [~~parties to~~] the complaint and each person who is a subject of the complaint of the status of the investigation

[~~complaint~~] unless the notice would jeopardize an undercover investigation.

(d) The commission shall adopt a procedure for documenting complaints to the department from the time of the submission of the initial complaint to the final disposition of the complaint. The commission shall publish the procedure in the Texas Register.

SECTION 1.017. Section 51.302, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall by rule or by procedure published in the Texas Register establish a written enforcement plan that provides notice to license holders of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the department determines the amount of a proposed administrative penalty.

SECTION 1.018. Section 51.353, Occupations Code, is amended to read as follows:

Sec. 51.353. ADMINISTRATIVE SANCTIONS. (a) The commission shall revoke, suspend, or refuse to renew a license or shall reprimand a license holder for a violation of this chapter, [~~executive director shall adopt rules relating to administrative sanctions that may be enforced against a license holder regulated by the department. If a license holder violates~~] a law establishing a regulatory program administered by the department, or a rule [~~or order~~] of the commission [~~or executive director, the executive director may:~~

[~~(1) issue a written reprimand to the license holder;~~

[~~(2) revoke or suspend the license holder's license;~~

~~or~~

[~~(3) place the license holder on probation if the person's license has been suspended~~].

(b) The commission may place on probation a person whose license is suspended. If a license suspension is probated, the commission [~~executive director~~] may require the person [~~license holder~~] to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission [~~executive director~~]; or

(3) continue or renew professional education [~~in those areas that are the basis for the probation~~] until the person [~~license holder~~] attains a degree of skill satisfactory to the commission in those areas that are the basis for the probation [~~executive director~~].

SECTION 1.019. Chapter 51, Occupations Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. LICENSE REQUIREMENTS

Sec. 51.401. LICENSE EXPIRATION AND RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee

that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

(f) Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

Sec. 51.402. EXAMINATIONS. (a) Not later than the 30th day after the date a person takes a license examination, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service;

and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a license examination, the department shall furnish the person with an analysis of the person's performance on the examination.

Sec. 51.403. EXAMINATION FEE REFUND. (a) The department may refund a license examination fee to a person who is unable to take the examination if the person:

(1) provides reasonable advance notice to the department; or

(2) cannot take the examination because of an emergency.

(b) The commission by rule shall define what constitutes reasonable notice and an emergency under this section.

Sec. 51.404. ENDORSEMENT; RECIPROCITY. (a) The commission may waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(b) The commission may waive any prerequisite to obtaining a license for an applicant who holds a license issued by another

jurisdiction with which this state has a reciprocity agreement. The commission may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

Sec. 51.405. CONTINUING EDUCATION. The commission shall recognize, prepare, or administer continuing education programs for license holders. A license holder must participate in the programs to the extent required by the commission to keep the person's license.

SECTION 1.020. Section 51.205, Occupations Code, is renumbered as Section 51.406, Occupations Code, and amended to read as follows:

Sec. 51.406 [~~51.205~~]. STAGGERED [~~LICENSE EXPIRATION AND~~] RENEWAL OF LICENSES. [~~(a)~~] The commission by rule [~~executive director~~] may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable [~~annually and may provide for a renewal period that exceeds 12 months.~~

[~~(b) The executive director shall notify a person regulated by the department of the impending expiration of the person's license~~].

SECTION 1.021. Chapter 51, Occupations Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ELECTRONIC AND TELECOMMUNICATIONS SYSTEMS

Sec. 51.451. DEFINITION. In this subchapter, "licensing entity" means a department, commission, board, office, authority, or other agency or governmental entity of this state that issues an occupational license.

Sec. 51.452. LICENSING INFORMATION DATABASE. (a) The department shall maintain an information database on licensing entities and licensing information.

(b) Each licensing entity shall contract with the department to use the database and shall use the database.

Sec. 51.453. TELEPHONE INFORMATION CENTER. The department shall provide a toll-free telephone number for use by the public regarding licensing information maintained by the department.

Sec. 51.454. FEES. The department shall charge licensing entities fees in amounts sufficient to cover the cost of implementing this subchapter, including fees on a subscription basis, on the basis of each transaction, or on another service basis.

SECTION 1.022. (a) Except as provided by Subsection (b) of this section, the changes in law made by this article in the prohibitions or qualifications applying to members of the Texas Commission of Licensing and Regulation do not affect the entitlement of a member serving on the commission immediately before September 1, 2003, to continue to serve and function as a member of the commission for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

(b) To implement the changes in law made by this article to

the composition of the Texas Commission of Licensing and Regulation under Section 51.052(a), Occupations Code, of the two positions that have terms scheduled to expire on February 1, 2005, one of the positions is abolished on September 1, 2003. On or before September 1, 2003, the two members whose terms are scheduled to expire on February 1, 2005, shall determine by unanimous agreement or by lot which of the two positions shall be abolished on September 1, 2003, and shall inform the presiding officer of the Texas Commission of Licensing and Regulation of that determination.

SECTION 1.023. (a) In this section:

(1) "Department" means the Texas Department of Licensing and Regulation.

(2) "Licensing entity" means a department, commission, board, office, authority, or other agency or governmental entity of this state that issues an occupational license.

(b) Not later than March 1, 2004, each licensing entity shall:

(1) contract with the department as required by Section 51.452, Occupations Code, as added by this article; and

(2) provide to the department the information necessary to implement Section 51.452, Occupations Code, as added by this article.

(c) Not later than September 1, 2004, the department shall implement:

(1) the database required by Section 51.452, Occupations Code, as added by this article; and

(2) the toll-free telephone number required by Section 51.453, Occupations Code, as added by this article.

(d) Licensing entities shall cooperate with the department to implement this section.

SECTION 1.024. (a) In this section:

(1) "Department" means the Texas Department of Licensing and Regulation.

(2) "Licensing entity" means a department, commission, board, office, authority, or other agency or governmental entity of this state that issues an occupational license.

(3) "TexasOnline" means the project implemented under Subchapter I, Chapter 2054, Government Code, as added by Chapter 342, Acts of the 77th Legislature, Regular Session, 2001.

(b) Not later than March 1, 2004, the department shall identify licensing entities that do not use TexasOnline.

(c) Not later than September 1, 2004, the department shall assist those entities to develop websites for, and to convert to, TexasOnline.

(d) Licensing entities shall cooperate with the department to implement this section.

SECTION 1.025. Not later than December 1, 2003, the Texas Commission of Licensing and Regulation shall adopt the rules required by Section 51.302(c), Occupations Code, as added by this article.

SECTION 1.026. Section 51.053(c), Occupations Code, is repealed.

ARTICLE 2. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

SECTION 2.001. Section 1302.002, Occupations Code, is amended by amending Subdivision (5) and adding Subdivision (11-a) to read as follows:

(5) "Air conditioning and refrigeration maintenance work" means all work, including repair work, required for the continued normal performance of an environmental air conditioning system, a process cooling or heating system, a commercial refrigeration system, or commercial refrigeration equipment. The term does not include:

(A) the total replacement of a system; or

(B) the installation or repair of a boiler or pressure vessel that must be installed in accordance with rules adopted by the commission [~~commissioner~~] under Chapter 755, Health and Safety Code.

(11-a) "Executive director" means the executive director of the department.

SECTION 2.002. The heading to Subchapter C, Chapter 1302, Occupations Code, is amended to read as follows:

SUBCHAPTER C. [~~COMMISSIONER AND DEPARTMENT~~] POWERS AND DUTIES

SECTION 2.003. Section 1302.101, Occupations Code, is amended to conform to Section 2, Chapter 790, Acts of the 77th Legislature, Regular Session, 2001, and is further amended to read as follows:

Sec. 1302.101. GENERAL POWERS AND DUTIES [~~OF COMMISSIONER~~]. (a) The commission [~~commissioner~~] shall[~~:~~

[~~(1)~~] adopt rules for the practice of air conditioning

and refrigeration contracting that are at least as strict as the standards provided by:

(1) [~~(A)~~] the Uniform Mechanical Code [~~published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as that code exists at the time the rules are adopted~~]; and [~~or~~]

(2) [~~(B)~~] the International [~~Standard~~] Mechanical Code.

(b) The executive director shall [~~published by the Southern Building Code Congress International, Inc., as that code exists at the time the rules are adopted;~~

[~~(2)~~] prescribe the design of an original and a renewal license.

(c) The commission shall[~~; and~~

[~~(3)~~] maintain a record of the commission's [~~commissioner's~~] proceedings under this chapter.

(d) [~~(b)~~] The executive director [~~commissioner~~] may authorize disbursements necessary to implement this chapter, including disbursements for office expenses, equipment costs, and other necessary facilities.

SECTION 2.004. Section 1302.103, Occupations Code, is amended to read as follows:

Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE. The commission [~~commissioner~~], with the advice of the advisory board, shall adopt rules relating to the use, display, and advertisement of a license.

SECTION 2.005. Section 1302.201, Occupations Code, is amended to read as follows:

Sec. 1302.201. ADVISORY BOARD MEMBERSHIP. The air conditioning and refrigeration contractors advisory board consists of six members appointed by the presiding officer of the commission [~~governor with the advice and consent of the senate~~] and two ex officio nonvoting members.

SECTION 2.006. Section 1302.204(a), Occupations Code, is amended to read as follows:

(a) The advisory board shall advise the commission [~~commissioner~~] in adopting rules and in administering and enforcing this chapter.

SECTION 2.007. Section 1302.205(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during an appointed member's term, the presiding officer of the commission [~~governor~~] shall fill the vacancy for the remainder of the unexpired term with a person who represents the same interests as the predecessor.

SECTION 2.008. Section 1302.206, Occupations Code, is amended to read as follows:

Sec. 1302.206. PRESIDING OFFICER. The presiding officer of the commission [~~governor~~] shall designate one member of the advisory board to serve as presiding officer of the board for two years.

SECTION 2.009. Section 1302.261, Occupations Code, is amended to read as follows:

Sec. 1302.261. TEMPORARY LICENSE. The commission

[~~commissioner~~] by rule may provide for the issuance of a temporary air conditioning and refrigeration contracting license to an applicant who:

(1) submits to the executive director [~~commissioner~~] an application on a form prescribed by the executive director [~~commissioner~~]; and

(2) pays the required fees.

SECTION 2.010. Section 1302.354(b), Occupations Code, is amended to read as follows:

(b) The commission [~~commissioner~~] by rule shall adopt requirements governing the registration and issuance of a certificate of registration.

SECTION 2.011. Section 1302.355(c), Occupations Code, is amended to read as follows:

(c) The commission [~~commissioner~~] by rule shall establish requirements for evidence that satisfies this section.

SECTION 2.012. The following laws are repealed:

(1) Section 1302.002(8), Occupations Code;

(2) Section 1302.107, Occupations Code;

(3) Section 1302.152, Occupations Code;

(4) Section 1302.258, Occupations Code;

(5) Section 1302.259, Occupations Code; and

(6) Chapter 790, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 2.013. The changes in law made by this article applying to members of the air conditioning and refrigeration contractors advisory board do not affect the entitlement of a

member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 3. AMUSEMENT RIDES

SECTION 3.001. Section 2151.002, Occupations Code, is amended by amending Subdivisions (4) and (5) and adding Subdivision (5-a) to read as follows:

(4) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of insurance~~].

(5) "Department" means the Texas Department of Licensing and Regulation [~~Insurance~~].

(5-a) "Executive director" means the executive director of the department.

SECTION 3.002. Section 2151.051, Occupations Code, is amended to read as follows:

Sec. 2151.051. GENERAL POWERS AND DUTIES. The department [~~commissioner~~] shall administer and enforce this chapter.

SECTION 3.003. Section 2151.052(a), Occupations Code, is amended to read as follows:

(a) The commission [~~commissioner~~] shall establish reasonable and necessary fees, in an amount not to exceed $40 per year, for each amusement ride covered by this chapter.

SECTION 3.004. Sections 2151.1021(a) and (c), Occupations Code, are amended to read as follows:

(a) The commission [~~commissioner~~] shall adopt rules

requiring operators of mobile amusement rides to perform inspections of mobile amusement rides, including rules requiring daily inspections of safety restraints.

(c) The executive director [~~commissioner~~] shall prescribe forms for inspections required under this section and shall require records of the inspections to be made available for inspection by any municipality, county, or state law enforcement officials at any location at which an amusement ride is operated.

SECTION 3.005. Sections 2151.1022(b) and (c), Occupations Code, are amended to read as follows:

(b) The operator shall file with the department [~~commissioner~~] quarterly a report, on a form designed by the executive director [~~commissioner~~], describing each governmental action taken in the quarter covered by the report for which the operator is required by Subsection (a) to maintain records. A report is not required in any quarter in which no reportable governmental action was taken in any state in which the person operated the amusement ride.

(c) A person who operates an amusement ride shall maintain for not less than two years at any location where the ride is operated, for inspection by a municipal, county, or state law enforcement official, a photocopy of any quarterly report required under this section or Section 2151.103 to be filed with the department [~~commissioner~~].

SECTION 3.006. Section 2151.103(c), Occupations Code, is amended to read as follows:

(c) The operator shall file an injury report with the

department [~~commissioner~~] on a quarterly basis. The report shall be made on a form prescribed by the executive director [~~commissioner~~] and shall include a description of each injury caused by a ride that results in death or requires medical treatment.

SECTION 3.007. Section 2151.105(a), Occupations Code, is amended to read as follows:

(a) The commission [~~commissioner~~] shall adopt rules requiring that a sign be posted to inform the public how to report an amusement ride that appears to be unsafe or to report an amusement ride operator who appears to be violating the law.

SECTION 3.008. Section 2151.151, Occupations Code, is amended to read as follows:

Sec. 2151.151. INJUNCTION. The district attorney of a county in which an amusement ride is operated or, on request of the executive director [~~commissioner of insurance~~], the attorney general or an agent of the attorney general, may seek an injunction against a person operating an amusement ride in violation of this chapter or in violation of a rule adopted by the commission [~~commissioner~~] under Section 2151.1021 or 2151.105.

SECTION 3.009. Section 2151.152(a), Occupations Code, is amended to read as follows:

(a) A municipal, county, or state law enforcement official may determine compliance with a provision of Subchapter C, other than Section 2151.104, in conjunction with the executive director [~~commissioner~~] and may institute an action in a court of competent jurisdiction to enforce this chapter.

SECTION 3.010. Sections 2151.1525(b) and (d), Occupations Code, are amended to read as follows:

(b) If the operation of an amusement ride is prohibited under Subsection (a)(1) or (2), a person may not operate the amusement ride unless:

(1) the operator presents to the appropriate municipal, county, or state law enforcement official proof of compliance with Section 2151.101; or

(2) the executive director [~~commissioner~~] or the executive director's [~~commissioner's~~] designee determines that on the date the amusement ride's operation was prohibited the operator had on file with the department [~~board~~] the documents required by Section 2151.101 and issues a written statement permitting the amusement ride to resume operation.

(d) If on the date an amusement ride's operation is prohibited under Subsection (a)(3) the amusement ride is in compliance with Section 2151.101, a person may not operate the amusement ride until:

(1) on-site corrections are made;

(2) an order from a district judge, county judge, judge of a county court at law, justice of the peace, or municipal judge permits the amusement ride to resume operation; or

(3) an insurance company insuring the amusement ride on the date the amusement ride's operation was prohibited:

(A) reinspects the amusement ride in the same manner required by Section 2151.101; and

(B) delivers to the department [~~commissioner or~~

~~the commissioner's designee~~] and the appropriate law enforcement official a reinspection certificate:

(i) stating that the required reinspection has occurred;

(ii) stating that the amusement ride meets coverage standards and is covered by insurance in compliance with Section 2151.101; and

(iii) explaining the necessary repairs, if any, that have been made to the amusement ride after its operation was prohibited.

SECTION 3.011. Section 2151.1526(b), Occupations Code, is amended to read as follows:

(b) If a mobile amusement ride was in compliance with Section 2151.101 when its operation was initially prohibited under Subsection (a), a person may resume operating the mobile amusement ride only after an insurance company insuring the amusement ride on the date its operation was prohibited:

(1) reinspects the amusement ride in the same manner required under Section 2151.101; and

(2) delivers to the department [~~commissioner or the commissioner's designee~~] a reinspection certificate:

(A) stating that the required reinspection has occurred;

(B) stating that the amusement ride meets coverage standards and is covered by insurance in compliance with Section 2151.101; and

(C) explaining the necessary repairs, if any,

that have been made to the amusement ride after its operation was prohibited.

SECTION 3.012. Section 2151.153(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person fails to comply with any requirement of:

(1) Section 2151.101, 2151.102, 2151.103, 2151.1525(b), (c), or (d), or 2151.1526(a); or

(2) a rule adopted by the commission [~~commissioner~~] under Section 2151.1021 or 2151.105.

SECTION 3.013. (a) On November 1, 2003:

(1) all functions and activities relating to Chapter 2151, Occupations Code, performed by the Texas Department of Insurance immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the commissioner of insurance that relates to Chapter 2151, Occupations Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a reference in law or an administrative rule to the Texas Department of Insurance that relates to Chapter 2151, Occupations Code, means the Texas Department of Licensing and Regulation;

(4) a complaint, investigation, or other proceeding before the Texas Department of Insurance that is related to Chapter 2151, Occupations Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas

Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Department of Insurance in an action or proceeding to which the Texas Department of Insurance is a party;

(5) all money, contracts, leases, property, and obligations of the Texas Department of Insurance related to Chapter 2151, Occupations Code, are transferred to the Texas Department of Licensing and Regulation;

(6) all property in the custody of the Texas Department of Insurance related to Chapter 2151, Occupations Code, is transferred to the Texas Department of Licensing and Regulation; and

(7) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Department of Insurance related to Chapter 2151, Occupations Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Department of Insurance may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Insurance to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Department of Insurance shall continue to perform functions and activities under Chapter 2151, Occupations Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 4. ARCHITECTURAL BARRIERS

SECTION 4.001. Section 4, Article 9102, Revised Statutes, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Executive director" means the executive director of the department.

SECTION 4.002. Article 9102, Revised Statutes, is amended by adding Section 4A to read as follows:

Sec. 4A. APPLICABILITY OF OTHER LAW. Sections 51.401 and 51.404, Occupations Code, do not apply to this article.

SECTION 4.003. Sections 5A(c)-(h) and (j), Article 9102, Revised Statutes, are amended to read as follows:

(c) An applicant for a certificate of registration must file with the commission an application on a form prescribed by the executive director [~~commissioner~~].

(d) To be eligible for a certificate of registration, an applicant must satisfy any requirements adopted by the commission [~~commissioner~~] by rule, including education and examination requirements.

(e) The executive director [~~commissioner~~] may issue a certificate of registration to perform review functions of the commission, inspection functions of the commission, or both review and inspection functions.

(f) The executive director [~~commissioner~~] may administer separate examinations for applicants for certificates of registration to perform review functions, inspection functions, or both review and inspection functions. [~~Not later than the 30th day after the examination date, the commissioner shall notify each~~

~~examinee of the results of the examination.~~]

(g) The executive director [~~commissioner~~] shall issue an appropriate certificate of registration to an applicant who meets the requirements for a certificate.

(h) The commission [~~commissioner~~] by rule shall specify the term of a certificate of registration issued under this section.

(j) A certificate holder shall perform a review or inspection function of the commission in a competent and professional manner and in compliance with:

(1) standards and specifications adopted by the commission under this article; and

(2) rules adopted by the commission [~~commissioner~~] under this article.

SECTION 4.004. Section 7, Article 9102, Revised Statutes, is amended to read as follows:

Sec. 7. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES. (a) The presiding officer of the commission shall appoint an advisory committee for the architectural barriers program. The committee shall be composed of building professionals and persons with disabilities who are familiar with architectural barrier problems and solutions. The committee shall be composed of at least eight members. Persons with disabilities must make up a majority of the membership.

(b) A committee member serves at the will of the presiding officer of the commission. A member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a

member.

(c) The presiding officer of the commission [~~committee~~] shall appoint [~~elect~~] a member of the committee as chair for two years. The committee shall meet at least twice each calendar year at the call of the committee chair or at the call of the commission [~~commissioner~~].

(d) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission [~~and the commissioner~~]. The commission shall submit all proposed changes to rules and procedures that relate to the architectural barriers program to the committee for review and comment before adoption or implementation of the new or amended rule or procedure.

SECTION 4.005. The following laws are repealed:

(1) Section 4(3), Article 9102, Revised Statutes; and

(2) Section 5A(i), Article 9102, Revised Statutes.

SECTION 4.006. The changes in law made by this article applying to members of the advisory committee for the program for the elimination of architectural barriers do not affect the entitlement of a member serving on the committee immediately before September 1, 2003, to continue to serve and function as a member of the committee for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 5. AUCTIONEERS

SECTION 5.001. Section 1802.001, Occupations Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Executive director" means the executive director of the department.

SECTION 5.002. Sections 1802.059(a), (b), and (d), Occupations Code, are amended to read as follows:

(a) An applicant for an auctioneer's license who is not a resident of this state but is licensed as an auctioneer in another state must submit to the executive director [~~commissioner~~]:

(1) a license application;

(2) a certified copy of the auctioneer's license issued to the applicant by the state or political subdivision in which the applicant resides; and

(3) proof that the state or political subdivision in which the applicant is licensed has competency standards equivalent to or stricter than those of this state.

(b) The executive director [~~commissioner~~] shall accept the applicant's auctioneer's license submitted under Subsection (a)(2) as proof of the applicant's professional competence and waive the examination and training requirements of Section 1802.052 if the state or political subdivision that issued the nonresident a license extends similar recognition and courtesies to this state.

(d) A nonresident applicant must submit with the application a written irrevocable consent to service of process. The consent must be in the form and supported by additional information that the commission [~~commissioner~~] by rule requires. The consent must:

(1) provide that an action relating to any transaction subject to this chapter may be commenced against the license holder

in the proper court of any county of this state in which the cause of action may arise or in which the plaintiff may reside by service of process on the executive director [~~commissioner~~] as the license holder's agent; and

(2) include a statement stipulating and agreeing that service provided by this section is as valid and binding as if service had been made on the person according to the laws of this or any other state.

SECTION 5.003. Section 1802.101, Occupations Code, is amended to read as follows:

Sec. 1802.101. AUCTIONEER EDUCATION ADVISORY BOARD. The advisory board shall advise the commission [~~commissioner~~] on educational matters.

SECTION 5.004. Sections 1802.102(a) and (b), Occupations Code, are amended to read as follows:

(a) The advisory board consists of five members appointed as follows:

(1) three members who are licensed auctioneers appointed by the presiding officer of the commission [~~commissioner~~];

(2) the executive director of the Texas Department of Economic Development or the director's designee; and

(3) the commissioner of education or the commissioner's designee.

(b) In appointing advisory board members under Subsection (a)(1), the presiding officer of the commission [~~commissioner~~] may not appoint members who reside in contiguous senatorial districts.

SECTION 5.005. Section 1802.103(a), Occupations Code, is amended to read as follows:

(a) The members appointed under Section 1802.102(a)(1) serve two-year terms that expire on September 1. If a vacancy occurs during the term of such a member, the presiding officer of the commission [~~commissioner~~] shall appoint a replacement to serve for the remainder of the term.

SECTION 5.006. Section 1802.104, Occupations Code, is amended to read as follows:

Sec. 1802.104. PRESIDING OFFICER. The presiding officer of the commission shall appoint a member of the advisory board to serve [~~shall designate one of its members~~] as presiding officer of the board. The presiding officer serves for two years.

SECTION 5.007. Section 1802.109, Occupations Code, is amended to read as follows:

Sec. 1802.109. AUCTIONEER EDUCATION PROGRAMS. (a) The advisory board shall:

(1) evaluate educational programs, seminars, and training projects; and

(2) make recommendations to the commission [~~commissioner~~] on their usefulness and merit as continuing education tools.

(b) On the recommendation of the advisory board, the commission [~~commissioner~~] may fund or underwrite specific classes, seminars, or events for the education and advancement of the auctioneering profession in this state.

SECTION 5.008. Section 1802.153(a), Occupations Code, is

amended to read as follows:

(a) In addition to any other fees required by this chapter, an applicant entitled to receive a license under this chapter must pay a fee [~~of $100~~] before the executive director [~~commissioner~~] issues the license.

SECTION 5.009. Section 1802.201, Occupations Code, is amended to read as follows:

Sec. 1802.201. INVESTIGATION OF COMPLAINTS. The executive director [~~commissioner~~] may, on the executive director's [~~commissioner's~~] motion, and shall, on the written [~~and verified~~] complaint of a person aggrieved by the actions of an auctioneer in an auction, investigate an alleged violation of this chapter by a licensed or unlicensed auctioneer or an applicant.

SECTION 5.010. Sections 1802.202(a) and (b), Occupations Code, are amended to read as follows:

(a) A person who deals with an auctioneer licensed under this chapter and who is aggrieved by an action of the auctioneer as a result of a violation of a contract made with the auctioneer may initiate a claim against the fund by[~~:~~

[~~(1)~~] filing with the department a [~~sworn~~] complaint against the auctioneer[~~; and~~

[~~(2) paying to the department a filing fee of $50~~].

(b) The executive director [~~commissioner~~] may not pay a claim against an auctioneer who was not licensed at the time of the transaction on which the claim is based.

SECTION 5.011. Section 1802.203(c), Occupations Code, is amended to read as follows:

(c) After the hearing, the hearings examiner shall prepare a proposal for decision for the commission [~~commissioner~~].

SECTION 5.012. Section 1802.204, Occupations Code, is amended to read as follows:

Sec. 1802.204. APPEAL. A party may appeal a decision of the commission [~~commissioner~~] in the manner provided for a contested case under Chapter 2001, Government Code.

SECTION 5.013. Section 1802.207, Occupations Code, is amended to read as follows:

Sec. 1802.207. REIMBURSEMENT; INTEREST. (a) If the executive director [~~commissioner~~] pays a claim against an auctioneer, the auctioneer shall:

(1) reimburse the fund immediately or agree in writing to reimburse the fund on a schedule to be determined by rule of the commission [~~commissioner~~]; and

(2) immediately pay the aggrieved party any amount due to that party or agree in writing to pay the party on a schedule to be determined by rule of the commission [~~commissioner~~].

(b) Payments made by an auctioneer to the fund or to an aggrieved party under this section include interest accruing at the rate of eight percent a year beginning on the date the executive director [~~commissioner~~] pays the claim.

SECTION 5.014. Section 1802.209(a), Occupations Code, is amended to read as follows:

(a) This subchapter and Section 1802.252 do not limit the commission's [~~commissioner's~~] authority to take disciplinary action against a license holder for a violation of this chapter or a

rule adopted under this chapter.

SECTION 5.015. Section 1802.251, Occupations Code, is amended to read as follows:

Sec. 1802.251. DENIAL OF APPLICATION; SUSPENSION OR REVOCATION OF LICENSE. The commission [~~commissioner~~] may deny an application for a license or suspend or revoke the license of any auctioneer for:

(1) violating this chapter or a rule adopted under this chapter;

(2) obtaining a license through false or fraudulent representation;

(3) making a substantial misrepresentation in an application for an auctioneer's license;

(4) engaging in a continued and flagrant course of misrepresentation or making false promises through an agent, advertising, or otherwise;

(5) failing to account for or remit, within a reasonable time, money belonging to another that is in the auctioneer's possession and commingling funds of another with the auctioneer's funds or failing to keep the funds of another in an escrow or trust account; or

(6) [~~being convicted in a court of this state or another state of a criminal offense involving moral turpitude or a felony; or~~

[~~(7)~~] violating the Business & Commerce Code in conducting an auction.

SECTION 5.016. Section 1802.252, Occupations Code, is

amended to read as follows:

Sec. 1802.252. REVOCATION FOR CLAIM ON FUND. (a) The commission [~~commissioner~~] may revoke a license issued under this chapter if the executive director [~~commissioner~~] makes a payment from the fund as the result of an action of the license holder.

(b) The commission [~~commissioner~~] may probate an order revoking a license.

(c) An auctioneer is not eligible for a new license until the auctioneer has repaid in full the amount paid from the fund on the auctioneer's account, including interest, unless:

(1) a hearing is held; and

(2) the executive director [~~commissioner~~] issues a new probated license.

SECTION 5.017. Section 1802.253, Occupations Code, is amended to read as follows:

Sec. 1802.253. HEARING. (a) Before denying an application for a license [~~or suspending or revoking a license~~], the commission [~~commissioner~~] shall:

(1) set the matter for a hearing; and

(2) before the 30th day before the hearing date, notify the applicant [~~or license holder~~] in writing of:

(A) the charges alleged or the question to be determined at the hearing; and

(B) the date and location of the hearing.

(b) At a hearing under this section, the applicant [~~or license holder~~] may:

(1) be present and be heard in person or by counsel;

and

(2) have an opportunity to offer evidence by oral testimony, affidavit, or deposition.

(c) Written notice may be served by personal delivery to the applicant [~~or license holder~~] or by certified mail to the last known mailing address of the applicant [~~or license holder~~].

(d) If the applicant [~~or license holder~~] who is the subject of the hearing is an associate auctioneer, the commission [~~commissioner~~] shall provide written notice to the auctioneer who employs the associate auctioneer or who has agreed to employ the associate auctioneer by mailing the notice by certified mail to the auctioneer's last known mailing address.

SECTION 5.018. Section 1802.254, Occupations Code, is amended to read as follows:

Sec. 1802.254. APPEAL. An appeal by an applicant [~~or license holder~~] of the commission's [~~commissioner's~~] determination under Section 1802.252 must be to a district court of Travis County or of the county in which the violation is alleged to have occurred.

SECTION 5.019. Section 1802.303(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person violates a provision of this chapter or a rule adopted by the commission [~~commissioner~~] under this chapter for which a penalty is not provided.

SECTION 5.020. The following laws are repealed:

(1) Section 1802.001(7), Occupations Code;

(2) Section 1802.057, Occupations Code; and

(3) Section 1802.061, Occupations Code.

SECTION 5.021. The changes in law made by this article applying to members of the Auctioneer Education Advisory Board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 6. BACKFLOW PREVENTION ASSEMBLY TESTERS

SECTION 6.001. Section 341.034(c), Health and Safety Code, is amended to read as follows:

(c) A person who repairs or tests the installation or operation of backflow prevention assemblies must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code.

SECTION 6.002. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(c), Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas

Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Section 341.034(c), Health and Safety Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Section 341.034(c), Health and Safety Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Section 341.034(c), Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any

money appropriated by the legislature for the Texas Commission on Environmental Quality related to Section 341.034(c), Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Section 341.034(c), Health and Safety Code, as if that section had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 7. BOILERS

SECTION 7.001. Section 755.001, Health and Safety Code, is amended by amending Subdivisions (5), (6), and (23) and adding Subdivision (7-a) to read as follows:

(5) "Certificate of operation" means a certificate issued by the executive director [~~commissioner~~] to allow the operation of a boiler.

(6) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing and regulation~~].

(7-a) "Executive director" means the executive

director of the department.

(23) "Standard boiler" means a boiler that bears a Texas stamp, the stamp of a nationally recognized engineering professional society, or the stamp of any jurisdiction that has adopted a standard of construction equivalent to the standard required by the executive director [~~commissioner~~].

SECTION 7.002. Sections 755.011(b) and (d), Health and Safety Code, are amended to read as follows:

(b) The board is composed of the following nine members appointed by the presiding officer of the commission [~~commissioner~~]:

(1) three members representing persons who own or use boilers in this state;

(2) three members representing companies that insure boilers in this state;

(3) one member representing boiler manufacturers or installers;

(4) one member who is a mechanical engineer and a member of the faculty of a recognized college of engineering in this state; and

(5) one member representing a labor union.

(d) The executive director [~~commissioner~~] serves as an ex officio board member.

SECTION 7.003. Section 755.013, Health and Safety Code, is amended to read as follows:

Sec. 755.013. PRESIDING OFFICER [~~CHAIRMAN~~]. The presiding officer of the commission shall appoint one member [~~chief inspector~~

~~serves as chairman~~] of the board to serve as the board's presiding officer for two years.

SECTION 7.004. Section 755.014, Health and Safety Code, is amended to read as follows:

Sec. 755.014. REMOVAL OF BOARD MEMBERS; VACANCY. (a) The commission [~~commissioner~~] may remove a board member for inefficiency or neglect of official duty.

(b) A board member's office becomes vacant on the resignation, death, suspension, or incapacity of the member. The presiding officer of the commission [~~commissioner~~] shall appoint, in the same manner as the original appointment, a person to serve for the remainder of the unexpired term.

SECTION 7.005. Section 755.016, Health and Safety Code, is amended to read as follows:

Sec. 755.016. MEETINGS. The board shall meet at least twice each year at the call of the presiding officer [~~chairman~~] at a place designated by the board.

SECTION 7.006. Section 755.017, Health and Safety Code, is amended to read as follows:

Sec. 755.017. POWERS AND DUTIES. The board shall advise the commission [~~commissioner~~] in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances.

SECTION 7.007. Section 755.030(a), Health and Safety Code, is amended to read as follows:

(a) In addition to the fees described by Section 51.202,

Occupations Code, the commission may authorize the collection of fees for:

(1) boiler inspections, including fees for special inspections; and

(2) other activities administered by the boiler inspection section and authorized by rule of the commission [~~executive director of the department~~].

SECTION 7.008. Section 755.032, Health and Safety Code, is amended to read as follows:

Sec. 755.032. RULES. (a) The commission [~~commissioner~~] may adopt and enforce rules, in accordance with standard boiler usage, for the construction, inspection, installation, use, maintenance, repair, alteration, and operation of boilers.

(b) The executive director [~~commissioner~~] may exchange information, including data on experience, with other authorities that inspect boilers or their appurtenances, to obtain information necessary to adopt rules.

(c) The executive director [~~commissioner~~] or a department employee may not prescribe the make, brand, or kind of boilers or any appurtenances on the boiler to purchase.

(d) The executive director [~~commissioner~~] or a department employee may not prescribe the make, brand, or kind of boilers to purchase.

SECTION 7.009. Section 755.033, Health and Safety Code, is amended to read as follows:

Sec. 755.033. INTERAGENCY INSPECTION AGREEMENTS. (a) The executive director [~~commissioner~~] shall enter into interagency

agreements with the Texas Department of Health, the Texas Commission on Fire Protection, and the Texas Department [~~State Board~~] of Insurance under which inspectors, marshals, or investigators from those agencies who discover unsafe or unregistered boilers in the course and scope of inspections conducted as part of regulatory or safety programs administered by those agencies are required to report the unsafe or unregistered boilers to the executive director [~~commissioner~~].

(b) The executive director [~~commissioner~~] may enter into analogous agreements with local fire marshals.

(c) The commission [~~commissioner~~] shall adopt rules relating to the terms and conditions of an interagency agreement entered into under this section.

SECTION 7.010. Sections 755.041(b) and (d), Health and Safety Code, are amended to read as follows:

(b) On written request, an owner or operator who does not comply with a preliminary order is entitled to a hearing before the executive director [~~commissioner~~] to show cause for not enforcing the preliminary order. If, after the hearing, the executive director [~~commissioner~~] determines that the boiler is unsafe and that the preliminary order should be enforced, or that other acts are necessary to make the boiler safe, the executive director [~~commissioner~~] may order or confirm the withholding of the certificate of operation for that boiler, and may impose additional requirements as necessary for the repair or alteration of the boiler or the correction of the unsafe conditions.

(d) This section does not limit the executive director's

[~~commissioner's~~] authority under Section 755.028 or the commission's authority under Section 755.032.

SECTION 7.011. Section 755.043(a), Health and Safety Code, is amended to read as follows:

(a) A person, firm, or corporation commits an offense if:

(1) the person, firm, or corporation owns a boiler in this state, has the custody, management, use, or operation of a boiler in this state, or is otherwise subject to this chapter or a rule adopted under this chapter; and

(2) the person, firm, or corporation violates this chapter, a rule adopted under this chapter, or an order issued by the commission, the executive director, [~~commissioner~~] or a regularly employed inspector authorized to enforce this chapter and rules and orders.

SECTION 7.012. Section 755.045, Health and Safety Code, is amended to read as follows:

Sec. 755.045. NOTICE OF RULE OR ORDER REQUIRED BEFORE PROSECUTION. A criminal action may not be maintained against any person relating to the violation of a rule adopted or an order issued under this chapter until the commission [~~commissioner~~] gives notice of the rule or order.

SECTION 7.013. Section 755.046, Health and Safety Code, is amended to read as follows:

Sec. 755.046. AFFIDAVIT OF ORDERS. An affidavit is admissible as evidence in any civil or criminal action involving an order adopted by the commission or the executive director [~~commissioner~~] and the publication of the order, without further

proof of the order's issuance or publication or of the contents of the order, if the affidavit:

(1) is issued under the seal of the commission or the executive director [~~commissioner~~];

(2) is executed by the commission, the executive director [~~commissioner~~], the chief inspector, or a deputy inspector;

(3) states the terms of the order;

(4) states that the order was issued and published; and

(5) states that the order was in effect during the period specified by the affidavit.

SECTION 7.014. The following laws are repealed:

(1) Sections 755.024(c), (d), (e), and (h), Health and Safety Code; and

(2) Section 755.031, Health and Safety Code.

SECTION 7.015. The changes in law made by this article applying to members of the board of boiler rules do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 8. CAREER COUNSELING SERVICES

SECTION 8.001. Section 2502.001, Occupations Code, is amended by amending Subdivision (3) and adding Subdivision (4-a) to read as follows:

(3) "Commission" [~~Commissioner"~~] means the Texas

Commission of Licensing and Regulation [~~commissioner of licensing and regulation~~].

(4-a) "Executive director" means the executive director of the department.

SECTION 8.002. Section 2502.056, Occupations Code, is amended to read as follows:

Sec. 2502.056. RULES. The commission [~~commissioner~~] may adopt rules relating to the administration and enforcement of the certificate of authority program created under this subchapter.

SECTION 8.003. Subchapter B, Chapter 2502, Occupations Code, is amended by adding Section 2502.058 to read as follows:

Sec. 2502.058. APPLICABILITY OF OTHER LAW. Section 51.404 does not apply to this chapter.

SECTION 8.004. Section 2502.252, Occupations Code, is amended to read as follows:

Sec. 2502.252. COMPLAINT AND INVESTIGATION. (a) A person [~~by sworn affidavit~~] may file with the executive director [~~commissioner~~] a complaint alleging a violation of this chapter.

(b) On receipt of the complaint, the executive director [~~commissioner~~] shall investigate the alleged violation and may:

(1) inspect any record relevant to the complaint; and

(2) subpoena the record and any necessary witness.

SECTION 8.005. Sections 2502.253(a) and (c), Occupations Code, are amended to read as follows:

(a) If the executive director [~~commissioner~~] determines as a result of an investigation that a violation of this chapter may have occurred, the executive director [~~commissioner~~] shall hold a

hearing [~~not later than the 45th day after the date the complaint was filed under Section 2502.252~~].

(c) The executive director [~~commissioner~~] shall render a decision on the alleged violation [~~not later than the eighth day~~] after [~~the date~~] the hearing is concluded.

SECTION 8.006. Section 2502.254, Occupations Code, is amended to read as follows:

Sec. 2502.254. SANCTIONS. (a) If, after a hearing, the commission [~~commissioner~~] determines that a career counseling service has violated this chapter, the commission [~~commissioner~~] may, as appropriate:

(1) issue a warning to the service; or

(2) suspend or revoke the certificate of authority issued to the service.

(b) If, after a hearing, the commission [~~commissioner~~] determines that a career counseling service has violated this chapter, the executive director [~~commissioner~~] may award the complainant an amount equal to the amount of the fee charged by the service.

SECTION 8.007. Section 2502.255, Occupations Code, is amended to read as follows:

Sec. 2502.255. REISSUANCE OF CERTIFICATE AFTER REVOCATION. If the commission [~~commissioner~~] revokes the certificate of authority of a career counseling service under Section 2502.254, the service and any owner of that service may not apply for a new certificate until after the third anniversary of the date the certificate was revoked.

SECTION 8.008. Section 2502.057, Occupations Code, is repealed.

ARTICLE 9. COMBATIVE SPORTS

SECTION 9.001. Section 2052.002, Occupations Code, is amended by amending Subdivision (4) and adding Subdivision (8-a) to read as follows:

(4) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing and regulation or the commissioner's designated representative~~].

(8-a) "Executive director" means the executive director of the department.

SECTION 9.002. Subchapter A, Chapter 2052, Occupations Code, is amended by adding Section 2052.003 to read as follows:

Sec. 2052.003. APPLICABILITY OF OTHER LAW. Section 51.401 does not apply to this chapter.

SECTION 9.003. The heading to Subchapter B, Chapter 2052, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF DEPARTMENT AND COMMISSIONER~~]

SECTION 9.004. Section 2052.052, Occupations Code, is amended to read as follows:

Sec. 2052.052. RULES. (a) The commission [~~commissioner~~] shall adopt reasonable and necessary rules to administer this chapter.

(b) The commission [~~commissioner~~] may adopt rules:

(1) governing professional kickboxing contests and exhibitions; and

(2) establishing reasonable qualifications for an

applicant seeking a license from the department under this chapter.

SECTION 9.005. Section 2052.054, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The commission [~~commissioner~~] may recognize, prepare, or administer continuing education programs for persons licensed under this chapter.

(c) Section 51.405 does not apply to this chapter.

SECTION 9.006. Section 2052.103, Occupations Code, is amended to read as follows:

Sec. 2052.103. ELIMINATION TOURNAMENT BOXING PROMOTER LICENSE APPLICATION REQUIREMENTS. (a) An applicant for an elimination tournament boxing promoter's license under this chapter must apply on a form furnished by the executive director [~~commissioner~~].

(b) An application must be accompanied by an application fee [~~of not more than $1,000~~] and, if the applicant charges a fee for admission to the elimination tournament or awards a trophy, prize, including a prize of money, or other item of value of more than $50 to a contestant winning the elimination tournament:

(1) a $50,000 surety bond subject to approval by the executive director [~~commissioner~~] and conditioned on the applicant's payment of:

(A) the tax imposed under Section 2052.151; and

(B) a claim against the applicant as described by Section 2052.109(a)(3); and

(2) proof of not less than $10,000 accidental death or

injury insurance coverage for each contestant participating in the elimination tournament.

SECTION 9.007. Section 2052.251, Occupations Code, is amended to read as follows:

Sec. 2052.251. BOXING GLOVES. A boxing event contestant, other than an elimination tournament contestant under Subchapter E, shall wear eight-ounce boxing gloves, unless the commission [~~commissioner~~] by rule requires or permits a contestant to wear heavier gloves.

SECTION 9.008. The following laws are repealed:

(1) Section 2052.104, Occupations Code;

(2) Section 2052.112, Occupations Code; and

(3) Section 2052.301, Occupations Code.

ARTICLE 10. COURT INTERPRETERS

SECTION 10.001. Section 57.041, Government Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 10.002. Sections 57.042(a), (c), (e), and (g), Government Code, are amended to read as follows:

(a) The licensed court interpreter advisory board is established as an advisory board to the commission [~~department~~]. The board is composed of nine members appointed by the presiding officer of the commission [~~governor~~]. Members of the board serve staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year.

(c) The presiding officer of the commission [~~At the initial~~

~~meeting of the board and at the first meeting after new members take office, the board~~] shall select from the board [~~its~~] members a presiding officer of the board to serve for two years.

(e) The presiding officer of the commission [~~commissioner~~] may remove a member of the board for inefficiency or neglect of duty in office. If a vacancy occurs on the board, the presiding officer of the commission [~~governor~~] shall appoint a member who represents the same interests as the former member to serve the unexpired term.

(g) The board shall advise the commission [~~commissioner~~] regarding the adoption of rules and the design of a licensing examination.

SECTION 10.003. Sections 57.043(a) and (b), Government Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a court interpreter license to an applicant who:

(1) can interpret for an individual who can hear but who does not comprehend English or communicate in English;

(2) passes the appropriate examination prescribed by the executive director [~~commissioner~~]; and

(3) possesses the other qualifications for the license required by this subchapter or by rules adopted under this subchapter.

(b) The commission [~~commissioner~~] shall[~~:~~

[~~(1)~~] adopt rules relating to licensing under this subchapter[~~;~~] and the executive director shall

[~~(2)~~] prescribe all forms required under this subchapter.

SECTION 10.004. Section 57.048, Government Code, is amended to read as follows:

Sec. 57.048. SUSPENSION AND REVOCATION OF LICENSES; REISSUANCE. (a) After a hearing, the commission [~~commissioner~~] shall suspend or revoke a court interpreter license on a finding that the individual:

(1) made a material misstatement in an application for a license;

(2) [~~wilfully~~] disregarded or violated this subchapter or a rule adopted under this subchapter; or

(3) [~~has been convicted of a felony or of any crime in which an essential element of the offense is misstatement, fraud, or dishonesty; or~~

[~~(4)~~] engaged in dishonorable or unethical conduct likely to deceive, defraud, or harm the public or a person for whom the interpreter interprets.

(b) The executive director [~~commissioner~~] may reissue a license to an individual whose license has been revoked if the individual applies in writing to the department and shows good cause to justify reissuance of the license.

SECTION 10.005. Section 57.041(3), Government Code, is repealed.

SECTION 10.006. The changes in law made by this article applying to members of the licensed court interpreter advisory board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the

member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 11. CUSTOMER SERVICE INSPECTORS

SECTION 11.001. Section 341.034(d), Health and Safety Code, is amended to read as follows:

(d) A person who inspects homes and businesses to identify potential or actual cross-connections or other contaminant hazards in public water systems must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code, unless the person is licensed by the Texas State Board of Plumbing Examiners as a plumbing inspector or water supply protection specialist.

SECTION 11.002. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(d), Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(d), Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Section 341.034(d), Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and

Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Section 341.034(d), Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Section 341.034(d), Health and Safety Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Section 341.034(d), Health and Safety Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Section 341.034(d), Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Section 341.034(d), Health and Safety Code, is transferred to the Texas Department of Licensing

and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Section 341.034(d), Health and Safety Code, as if that section had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 12. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

SECTION 12.001. Section 754.011, Health and Safety Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Executive director" means the executive director of the department.

SECTION 12.002. Sections 754.012(a)-(c), Health and Safety Code, are amended to read as follows:

(a) The elevator advisory board is composed of nine members appointed by the presiding officer of the commission [~~commissioner~~] as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of elevator, escalator, and related equipment constructors;

(3) a representative of owners or managers of buildings having fewer than six stories and having an elevator, an escalator, or related equipment;

(4) a representative of owners or managers of buildings having six stories or more and having an elevator, an escalator, or related equipment;

(5) a representative of independent elevator, escalator, and related equipment maintenance companies;

(6) a representative of elevator, escalator, and related equipment manufacturers;

(7) a representative of professional engineers or architects;

(8) a public member; and

(9) a public member with a physical disability.

(b) Board members serve at the will of the commission [~~commissioner~~].

(c) The presiding officer of the commission [~~commissioner~~] shall appoint a presiding officer of the board to serve for two years.

SECTION 12.003. Section 754.013, Health and Safety Code, is amended to read as follows:

Sec. 754.013. BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the commission [~~commissioner~~] on:

(1) the adoption of appropriate standards for the installation, alteration, operation, and inspection of elevators, escalators, and related equipment;

(2) the status of elevators, escalators, and related equipment used by the public in this state; and

(3) any other matter considered relevant by the commission [~~commissioner~~].

SECTION 12.004. The heading to Section 754.014, Health and Safety Code, is amended to read as follows:

Sec. 754.014. STANDARDS ADOPTED BY COMMISSION [~~COMMISSIONER~~].

SECTION 12.005. Sections 754.014(a)-(h) and (j), Health and Safety Code, are amended to read as follows:

(a) The commission [~~commissioner~~] shall adopt standards for the installation, alteration, operation, and inspection of elevators, escalators, and related equipment used by the public in:

(1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and

(2) buildings that contain an elevator, an escalator, or related equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) Standards adopted by the commission [~~commissioner~~] may not contain requirements in addition to the requirements in the ASME Code A17.1 or ASME Code A17.3.

(c) Standards adopted by the commission [~~commissioner~~] must require elevators, escalators, and related equipment to comply with the installation requirements of the following, whichever is the least restrictive:

(1) the ASME Code A17.1 that was in effect on the date of installation of the elevators, escalators, and related equipment; or

(2) an applicable municipal ordinance governing the installation of elevators, escalators, and related equipment that was in effect on the date of installation.

(d) Standards adopted by the commission [~~commissioner~~] must require elevators, escalators, and related equipment to comply with the installation requirements of the 1994 ASME Code A17.3 that contains minimum safety standards for all elevators, escalators, and related equipment, regardless of the date of installation.

(e) On written request, the executive director [~~commissioner~~] shall grant a delay for compliance with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3 until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act.

(f) On written request, the executive director [~~commissioner~~] shall grant a delay until September 1, 2005, for compliance with the requirements for door restrictors or firefighter's service in the 1994 ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation of the elevator, escalator, or related equipment and that equipment was not subsequently installed by an owner of the elevator, escalator, or related equipment.

(g) The executive director [~~commissioner~~] may grant a waiver of compliance with the applicable ASME Code A17.1 or the 1994

ASME Code A17.3 if the executive director [~~commissioner~~] finds that:

(1) the building in which the elevator, escalator, or related equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; and

(2) noncompliance will not constitute a significant threat to passenger safety.

(h) The executive director [~~commissioner~~] may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the 1994 ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(j) The executive director [~~commissioner~~] may charge a reasonable fee as set by the commission for an application for waiver or delay. One application for a waiver or delay may contain all requests related to a particular building. A delay may not be granted indefinitely but must be granted to a specified time.

SECTION 12.006. Section 754.015, Health and Safety Code, is amended to read as follows:

Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by rule shall provide for:

(1) the inspection and certification once each calendar year of elevators, escalators, and related equipment covered by standards adopted under this subchapter;

(2) the enforcement of those standards;

(3) the certification of qualified persons as inspectors for the purposes of this subchapter; and

(4) the form of the inspection report and certificate of compliance.

(b) The commission [~~commissioner~~] by rule may not require that:

(1) inspection be made more often than once per year of elevators, escalators, and related equipment; or

(2) persons post a bond or furnish insurance as a condition of certification[~~; and~~

[~~(3) inspection reports or certificates of compliance be placed in locations other than one provided in Section 754.019(4)~~].

SECTION 12.007. Section 754.016, Health and Safety Code, is amended to read as follows:

Sec. 754.016. INSPECTION REPORTS [~~REPORT~~] AND CERTIFICATES [~~CERTIFICATE~~] OF COMPLIANCE. (a) Inspection reports [~~An inspection report~~] and certificates [~~a certificate~~] of compliance required under this subchapter must cover all elevators, escalators, and related equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons. [~~There shall be only one inspection report and one certificate of compliance for each building.~~]

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner. The inspection

report shall be on forms designated by the executive director [~~commissioner~~].

(c) The executive director [~~commissioner~~] shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state:

(1) that the elevators, escalators, and related equipment have been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the executive director [~~commissioner~~] and stated in the certificate;

(2) the date of the last inspection and the due date for the next inspection; and

(3) contact information at the department to report a violation of this subchapter.

(d) The commission by rule shall:

(1) specify what information must be contained in a certificate of compliance;

(2) describe the procedure by which a certificate of compliance is issued;

(3) require that a certificate of compliance related to an elevator be posted in a publicly visible area of the building; and

(4) determine what constitutes a "publicly visible area" under Subdivision (3).

SECTION 12.008. Sections 754.017(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The commission [~~commissioner~~] may not by rule prohibit

an ASME-QEI-1 certified inspector who is registered with the department from inspecting under this subchapter an elevator, an escalator, or related equipment. A person assisting a certified inspector is not required to be ASME-QEI-1 certified.

(c) The executive director [~~commissioner~~] may charge a [~~$15~~] fee to certified inspectors for registering with the department.

SECTION 12.009. Sections 754.019(a), (b), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) The owner of real property on which an elevator, an escalator, or related equipment covered by this subchapter is located shall:

(1) have the elevator, escalator, or related equipment inspected by an ASME-QEI-1 certified inspector in accordance with the commission's [~~commissioner's~~] rules;

(2) obtain inspection reports [~~an inspection report~~] from the inspector evidencing that all elevators, escalators, and related equipment in a building on the real property were inspected in accordance with this subchapter and rules adopted under this subchapter;

(3) file with the executive director [~~commissioner~~] a copy of each inspection report and a [~~$20~~] filing fee for each report, plus a fee [~~$5~~] for each elevator, escalator, or related equipment not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance:

(A) in a publicly visible area of the building,

as determined by commission rule under Section 754.016, [~~the elevator mechanical room~~] if the certificate relates to an elevator;

(B) in the escalator box if the certificate relates to an escalator; or

(C) in a place designated by the executive director [~~commissioner~~] if the certificate relates to related equipment; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued by the executive director [~~commissioner~~].

(b) When an inspection report is filed with the executive director [~~commissioner~~], the owner shall submit to the executive director [~~commissioner~~]:

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(d) For the purpose of determining timely filing under Subsection (a)(3), an inspection report and fee are considered filed on the date of mailing by United States mail if properly addressed to the executive director [~~commissioner~~].

(e) If the inspection report and fee required by Subsection (a)(3) are not timely filed, the executive director [~~commissioner~~] may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional [~~$100~~] fee

for late filing.

SECTION 12.010. Section 754.023, Health and Safety Code, is amended to read as follows:

Sec. 754.023. INVESTIGATION; LICENSE PROCEEDINGS; INJUNCTION. (a) If there is good cause for the executive director [~~commissioner~~] to believe that an elevator, an escalator, or related equipment on real property is dangerous or that an accident involving an elevator, an escalator, or related equipment occurred on the property and serious bodily injury or property damage resulted, the executive director [~~commissioner~~] may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the elevator, escalator, or related equipment or investigate the accident at no cost to the owner.

(b) The executive director [~~commissioner~~] may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission [~~commissioner~~] may deny, suspend, or revoke the registration of any ASME-QEI-1 certified inspector for:

(1) obtaining registration with the executive director [~~commissioner~~] by fraud or false representation;

(2) falsifying any inspection report submitted to the executive director [~~commissioner~~]; or

(3) violating this subchapter or a rule adopted under this subchapter.

(d) The executive director [~~commissioner~~] is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(e) The executive director [~~commissioner~~] may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the executive director [~~commissioner~~] in the suit.

SECTION 12.011. Subchapter B, Chapter 754, Health and Safety Code, is amended by adding Section 754.025 to read as follows:

Sec. 754.025. APPLICABILITY OF OTHER LAW. Sections 51.401 and 51.404, Occupations Code, do not apply to this subchapter.

SECTION 12.012. The following laws are repealed:

(1) Section 754.011(5), Health and Safety Code; and

(2) Section 754.019(f), Health and Safety Code.

SECTION 12.013. Not later than December 1, 2003, the Texas Commission of Licensing and Regulation shall adopt the rules required by Sections 754.016 and 754.019(a), Health and Safety Code, as amended by this article.

SECTION 12.014. The changes in law made by this article apply only to an inspection report or certificate of compliance issued on or after the effective date of this Act. An inspection report or certificate issued before the effective date of this Act is covered by the law in effect when the report or certificate was issued and is valid until the renewal date of that report or certificate under

the terms of the former law, and the former law is continued in effect for that purpose. On renewal, an inspection report or certificate is subject to Chapter 754, Health and Safety Code, as amended by this article.

SECTION 12.015. The changes in law made by this article applying to members of the elevator advisory board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 13. INDUSTRIALIZED HOUSING AND BUILDINGS

SECTION 13.001. Section 1202.001, Occupations Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 13.002. Section 1202.101, Occupations Code, is amended to read as follows:

Sec. 1202.101. RULES; ORDERS. (a) The commission [~~commissioner~~] shall adopt rules and issue orders as necessary to:

(1) ensure compliance with the purposes of this chapter; and

(2) provide for uniform enforcement of this chapter.

(b) The commission [~~commissioner~~] shall adopt rules as appropriate to implement the council's actions, decisions, interpretations, and instructions.

SECTION 13.003. Section 1202.102, Occupations Code, is amended to read as follows:

Sec. 1202.102. RULES PROVIDING FOR REGISTRATION AND REGULATION. The commission [~~commissioner~~] by rule shall provide for registration and regulation of manufacturers or builders of industrialized housing or buildings.

SECTION 13.004. Subchapter C, Chapter 1202, Occupations Code, is amended by adding Section 1202.106 to read as follows:

Sec. 1202.106. APPLICABILITY OF OTHER LAW. Sections 51.401 and 51.404 do not apply to this chapter.

SECTION 13.005. Section 1202.202(a), Occupations Code, is amended to read as follows:

(a) To ensure compliance with approved designs, plans, and specifications, the department shall inspect the construction of industrialized housing and buildings at the manufacturing facility. The executive director [~~commissioner~~] may designate approved third-party inspectors to perform the inspections subject to the rules of the commission [~~commissioner~~].

SECTION 13.006. Section 1202.204, Occupations Code, is amended to read as follows:

Sec. 1202.204. RULES PROVIDING FOR DECALS OR INSIGNIA. The commission [~~commissioner~~] by rule shall provide for the placement of decals or insignia on each transportable modular section or modular component to indicate compliance with the mandatory construction codes.

SECTION 13.007. Section 1202.205, Occupations Code, is amended to read as follows:

Sec. 1202.205. RECIPROCITY. (a) The commission [~~commissioner~~] by rule may authorize an inspection of

industrialized housing or buildings constructed in another state to be performed by an inspector of the equivalent regulatory agency of the other state.

(b) The commission [~~commissioner~~] by rule may authorize an inspection of industrialized housing or buildings constructed in this state for use in another state.

(c) The commission [~~commissioner~~] shall enter into a reciprocity agreement with the equivalent regulatory agency of the other state as necessary to implement this section.

SECTION 13.008. Section 1202.252(a), Occupations Code, is amended to read as follows:

(a) A municipality that regulates the on-site construction or installation of industrialized housing and buildings may:

(1) require and review, for compliance with mandatory construction codes, a complete set of designs, plans, and specifications bearing the council's stamp of approval for each installation of industrialized housing or buildings in the municipality;

(2) require that all applicable local permits and licenses be obtained before construction begins on a building site;

(3) require, in accordance with commission [~~commissioner~~] rules, that all modules or modular components bear an approved decal or insignia indicating inspection at the manufacturing facility; and

(4) establish procedures for the inspection of:

(A) the erection and installation of industrialized housing or buildings to be located in the

municipality, to ensure compliance with mandatory construction codes and commission [~~commissioner~~] rules; and

(B) all foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

SECTION 13.009. Section 1202.301(b), Occupations Code, is amended to read as follows:

(b) A person may not construct, sell or offer to sell, lease or offer to lease, or transport over a street or highway of this state any industrialized housing or building, or modular section or component of a modular section, in violation of this chapter or a rule of the commission or order of the commission or executive director [~~commissioner~~].

SECTION 13.010. Section 1202.302, Occupations Code, is amended to read as follows:

Sec. 1202.302. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. In addition to imposing sanctions allowed under Section 51.353, the commission [~~The commissioner~~] may deny, permanently revoke, or suspend for a definite period and specified location or geographic area a certificate of registration if the commission [~~commissioner~~] finds that the applicant or registrant:

(1) provided false information on an application or other document filed with the department;

(2) failed to pay a fee or file a report required by the department for the administration or enforcement of this chapter;

(3) engaged in a false, misleading, or deceptive act

or practice as described by Subchapter E, Chapter 17, Business & Commerce Code; or

(4) violated:

(A) this chapter;

(B) a rule adopted by the commission or order issued by the commission or the executive director [~~commissioner~~] under this chapter; or

(C) a decision, action, or interpretation of the council.

SECTION 13.011. Section 1202.351(b), Occupations Code, is amended to read as follows:

(b) A person commits an offense if the person knowingly and wilfully violates this chapter or a published rule of the commission or order of the commission or the executive director [~~commissioner~~].

SECTION 13.012. The following laws are repealed:

(1) Section 1202.001(2), Occupations Code; and

(2) Section 1202.103, Occupations Code.

ARTICLE 14. IRRIGATORS

SECTION 14.001. Section 1903.001, Occupations Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (2-a) to read as follows:

(1) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission of Licensing and Regulation.

(2-a) "Department" means the Texas Department of Licensing and Regulation.

(3) "Executive director" means the executive director

of the department [~~commission~~].

SECTION 14.002. Section 1903.151, Occupations Code, is amended to read as follows:

(a) The Texas Irrigators Advisory Council consists of nine members appointed by the presiding officer of the commission as follows:

(1) six members who are irrigators, residents of this state, experienced in the irrigation business, and familiar with irrigation methods and techniques; and

(2) three public members.

SECTION 14.003. Section 1903.155, Occupations Code, is amended to read as follows:

Sec. 1903.155. PRESIDING OFFICER. The presiding officer of the commission [~~council~~] shall appoint a council member to serve for two years as [~~elect a~~] presiding officer of the council [~~by a majority vote at the first meeting each fiscal year~~].

SECTION 14.004. The following laws are repealed:

(1) Section 1903.052, Occupations Code;

(2) Section 1903.055, Occupations Code;

(3) Subchapter C, Chapter 1903, Occupations Code;

(4) Subchapter E, Chapter 1903, Occupations Code;

(5) Section 1903.255, Occupations Code;

(6) Section 1903.304, Occupations Code;

(7) Section 1903.351, Occupations Code;

(8) Section 1903.352, Occupations Code; and

(9) Sections 1903.353(b) and (c), Occupations Code.

SECTION 14.005. (a) On November 1, 2003:

(1) all functions and activities relating to Chapter 1903, Occupations Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Chapter 1903, Occupations Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Chapter 1903, Occupations Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Chapter 1903, Occupations Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Chapter 1903, Occupations Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Chapter 1903, Occupations Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Chapter 1903, Occupations Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Chapter 1903, Occupations Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Chapter 1903, Occupations Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 15. PERSONNEL EMPLOYMENT SERVICES

SECTION 15.001. Section 2501.001, Occupations Code, is amended by amending Subdivision (2) and adding Subdivisions (3-a)

and (4-a) to read as follows:

(2) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing and regulation~~].

(3-a) "Department" means the Texas Department of Licensing and Regulation.

(4-a) "Executive director" means the executive director of the department.

SECTION 15.002. Section 2501.152, Occupations Code, is amended to read as follows:

Sec. 2501.152. COMPLAINT AND INVESTIGATION. (a) A person [~~by sworn affidavit~~] may file with the executive director [~~commissioner~~] a complaint alleging a violation of Section 2501.102.

(b) On receipt of a complaint, the executive director [~~commissioner~~] shall investigate the alleged violation and may:

(1) inspect any records relevant to the complaint; and

(2) subpoena those records and any necessary witnesses.

SECTION 15.003. Sections 2501.153(a) and (c), Occupations Code, are amended to read as follows:

(a) If the executive director [~~commissioner~~] determines as a result of an investigation that a violation of Section 2501.102 may have occurred, the commission [~~commissioner~~] shall hold a hearing [~~not later than the 45th day after the date the complaint was filed under Section 2501.152~~].

(c) The commission [~~commissioner~~] shall render a decision

on the alleged violation [~~not later than the eighth day~~] after [~~the date~~] the hearing is concluded.

SECTION 15.004. Section 2501.154, Occupations Code, is amended to read as follows:

Sec. 2501.154. SANCTIONS. (a) If, after a hearing, the commission [~~commissioner~~] determines that a personnel service has violated Section 2501.102, the commission [~~commissioner~~] may, as appropriate:

(1) issue a warning to the personnel service; or

(2) suspend or revoke the certificate of authority issued to the personnel service.

(b) If, after a hearing, the commission [~~commissioner~~] determines that a personnel service has violated Section 2501.102, the commission [~~commissioner~~] may award the complainant an amount equal to the amount of the fee charged by the personnel service.

SECTION 15.005. Section 2501.155, Occupations Code, is amended to read as follows:

Sec. 2501.155. REISSUANCE OF CERTIFICATE AFTER REVOCATION. If the commission [~~commissioner~~] revokes a certificate of authority of a personnel service under Section 2501.154, the personnel service and any owner of that personnel service may not apply for a new certificate until the third anniversary of the date the certificate was revoked.

SECTION 15.006. Section 2501.058, Occupations Code, is repealed.

ARTICLE 16. PROPERTY TAX CONSULTANTS

SECTION 16.001. Section 1152.001, Occupations Code, is

amended by adding Subdivision (3-a) to read as follows:

(3-a) "Executive director" means the executive director of the department.

SECTION 16.002. The heading to Subchapter B, Chapter 1152, Occupations Code, is amended to read as follows:

SUBCHAPTER B. DUTIES OF COMMISSION, EXECUTIVE DIRECTOR, [~~COMMISSIONER~~] AND DEPARTMENT

SECTION 16.003. Section 1152.051, Occupations Code, is amended to read as follows:

Sec. 1152.051. STANDARDS OF CONDUCT FOR REGISTRANTS. The commission [~~commissioner~~] by rule shall establish standards of practice, conduct, and ethics for registrants.

SECTION 16.004. Sections 1152.102(a) and (b), Occupations Code, are amended to read as follows:

(a) The council is composed of six members appointed by the presiding officer of the commission.

(b) The presiding officer of the commission may appoint not more than two members who are qualified for an exemption under Section 1152.002(a)(3).

SECTION 16.005. Section 1152.104(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during a member's term, the presiding officer of the commission [~~commissioner~~] shall appoint to fill the unexpired part of the term a replacement who meets the qualifications of the vacated office.

SECTION 16.006. Section 1152.105, Occupations Code, is amended to read as follows:

Sec. 1152.105. PRESIDING OFFICER. The presiding officer of the commission [~~Before March 1 of each year, the council~~] shall appoint [~~elect~~] a member of the council to serve as presiding officer of the council for two years [~~until the last day of February of the following year~~].

SECTION 16.007. Section 1152.108, Occupations Code, is amended to read as follows:

Sec. 1152.108. COUNCIL POWERS. The council shall:

(1) recommend to the commission [~~commissioner~~] standards of practice, conduct, and ethics for registrants to be adopted under this chapter;

(2) recommend to the commission amounts for the fees it may set under this chapter;

(3) recommend to the commission [~~commissioner~~] contents for the senior property tax consultant registration examination and standards of acceptable performance;

(4) assist and advise the commission [~~commissioner~~] in recognizing continuing education programs and educational courses for registrants; and

(5) advise the commission [~~commissioner~~] in establishing educational requirements for initial applicants.

SECTION 16.008. Section 1152.155(a), Occupations Code, is amended to read as follows:

(a) To be eligible for registration, an applicant must:

(1) be at least 18 years of age;

(2) hold a high school diploma or its equivalent;

(3) pay the fees required by the commission;

(4) have a place of business in this state or designate a resident of this state as the applicant's agent for service of process; and

(5) meet any additional qualifications required by this chapter or by the commission [~~commissioner~~] under this chapter or Chapter 51.

SECTION 16.009. Section 1152.160, Occupations Code, is amended to read as follows:

Sec. 1152.160. SENIOR PROPERTY TAX CONSULTANT REGISTRATION EXAMINATION. (a) The executive director [~~commissioner~~] shall:

(1) adopt an examination for registration as a senior property tax consultant; and

(2) establish the standards for passing the examination.

(b) The department shall offer the examination at times and places designated by the executive director [~~commissioner~~].

(c) To be eligible to take the examination, an applicant must pay to the department an examination fee. [~~The commissioner by rule may establish conditions for refunding the examination fee to an applicant who does not take the examination.~~]

(d) The examination must:

(1) test the applicant's knowledge of:

(A) property taxation;

(B) the property tax system;

(C) property tax administration;

(D) ethical standards; and

(E) general principles of appraisal, accounting,

and law as they relate to property tax consulting services; and

(2) be graded according to rules adopted by the commission [~~commissioner~~].

SECTION 16.010. Section 1152.163(a), Occupations Code, is amended to read as follows:

(a) The commission [~~commissioner~~] may waive any registration requirement for an applicant who holds a certificate of registration or license issued by another state that has registration or licensing requirements that were, on the date of registration or licensing, substantially equal to those of this state.

SECTION 16.011. Section 1152.201, Occupations Code, is amended to read as follows:

Sec. 1152.201. TERM OF CERTIFICATE OF REGISTRATION. Except as otherwise provided by the commission, a certificate of registration expires on the first [~~second~~] anniversary of the date of issuance.

SECTION 16.012. Section 1152.202(a), Occupations Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue to an eligible registrant a certificate of renewal of registration on the timely receipt of the required renewal fee. [~~The certificate expires on the second anniversary of the date of issuance.~~]

SECTION 16.013. Section 1152.203, Occupations Code, is amended to read as follows:

Sec. 1152.203. REQUIRED CONTINUING EDUCATION. The commission [~~commissioner~~] by rule shall require that, to renew a

registration, the registrant complete during the term of the registration at least 10 [~~20~~] classroom hours of continuing education courses recognized by the commission [~~commissioner~~] at least three [~~six~~] hours of which include instruction on laws and legal issues in this state related to property tax consulting services.

SECTION 16.014. Section 1152.204, Occupations Code, is amended to read as follows:

Sec. 1152.204. RECOGNITION OF EDUCATIONAL PROGRAMS AND COURSES. (a) The commission [~~commissioner~~] by rule shall recognize appropriate continuing education programs for registrants.

(b) The commission [~~commissioner~~] shall recognize a continuing education course, including a course on the legal issues and law related to property tax consulting services, that is:

(1) approved by the Texas Real Estate Commission or the Texas Appraiser Licensing and Certification Board; and

(2) completed by a registrant who also holds:

(A) an active real estate broker license or an active real estate salesperson license under Chapter 1101; or

(B) an active real estate appraiser license or certificate under Chapter 1103.

(c) The commission [~~commissioner~~] may recognize an educational program or course:

(1) related to property tax consulting services; and

(2) offered or sponsored by a public provider or a recognized private provider, including:

(A) the comptroller;

(B) the State Bar of Texas;

(C) the Texas Real Estate Commission;

(D) an institution of higher education that meets program and accreditation standards comparable to those for public institutions of higher education as determined by the Texas Higher Education Coordinating Board; or

(E) a nonprofit and voluntary trade association, institute, or organization:

(i) whose membership consists primarily of persons who represent property owners in property tax or transactional tax matters;

(ii) that has written experience and examination requirements for membership or for granting professional designation to its members; and

(iii) that subscribes to a code of professional conduct or ethics.

(d) The commission [~~commissioner~~] may recognize a private provider of an educational program or course if the provider:

(1) applies to the department on a printed form prescribed by the executive director [~~commissioner~~]; and

(2) pays in the amounts set by the commission:

(A) a nonrefundable application fee; and

(B) an educational provider's fee.

(e) The department shall refund the educational provider's fee if the commission [~~commissioner~~] does not recognize the provider's educational program or course.

SECTION 16.015. Subchapter E, Chapter 1152, Occupations Code, is amended by adding Section 1152.205 to read as follows:

Sec. 1152.205. APPLICABILITY OF OTHER LAW REGARDING CONTINUING EDUCATION. Section 51.405 does not apply to this chapter.

SECTION 16.016. Section 1152.251, Occupations Code, is amended to read as follows:

Sec. 1152.251. DISCIPLINARY POWERS OF COMMISSION [~~COMMISSIONER~~]. After a hearing, the commission [~~commissioner~~] may deny a certificate of registration and may impose an administrative sanction or penalty and seek injunctive relief and a civil penalty against a registrant as provided by Chapter 51 for:

(1) a violation of this chapter or a rule applicable to the registrant adopted by the commission [~~commissioner~~] under this chapter;

(2) gross incompetency in the performance of property tax consulting services;

(3) dishonesty or fraud committed while performing property tax consulting services; or

(4) a violation of the standards of ethics adopted by the commission [~~commissioner~~].

SECTION 16.017. The following laws are repealed:

(1) Section 1152.001(2), Occupations Code;

(2) Section 1152.161, Occupations Code; and

(3) Sections 1152.202(b) and (c), Occupations Code.

SECTION 16.018. The changes in law made by this article to Sections 1152.201 and 1152.203, Occupations Code, apply only to a

certificate of registration issued or renewed on or after the effective date of this Act. A certificate of registration issued or renewed before the effective date of this Act is governed by those sections as they existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 16.019. The changes in law made by this article applying to members of the Property Tax Consultants Advisory Council do not affect the entitlement of a member serving on the council immediately before September 1, 2003, to continue to serve and function as a member of the council for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 17. SERVICE CONTRACT PROVIDERS

SECTION 17.001. Section 1304.002, Occupations Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Executive director" means the executive director of the department.

SECTION 17.002. Section 1304.051, Occupations Code, is amended to read as follows:

Sec. 1304.051. SERVICE CONTRACT PROVIDERS ADVISORY BOARD. (a) The Service Contract Providers Advisory Board consists of six members appointed by the presiding officer of the commission [~~commissioner~~] and one ex officio nonvoting member.

(b) Of the appointed members:

(1) two must be officers, directors, or employees of a provider of service contracts that have been approved by the executive director [~~commissioner~~];

(2) two must be officers, directors, or employees of a retail outlet or other entity in this state that provides to consumers service contracts approved by the executive director [~~commissioner~~] for sale to consumers;

(3) one must be an officer, director, or employee of an entity authorized by the Texas Department of Insurance to sell reimbursement insurance policies; and

(4) one must be a resident of this state who holds, as a consumer, a service contract that is in force in this state on the date of the member's appointment and was issued by a provider registered under this chapter.

(c) The executive director [~~commissioner~~] or the executive director's [~~commissioner's~~] designee serves as an ex officio nonvoting member of the advisory board.

SECTION 17.003. Section 1304.052(a), Occupations Code, is amended to read as follows:

(a) The advisory board shall advise the commission [~~commissioner~~] in adopting rules and in administering and enforcing this chapter.

SECTION 17.004. Section 1304.053(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during an appointed member's term, the presiding officer of the commission [~~commissioner~~] shall fill the vacancy for the remainder of the unexpired term with a person who represents the same interests as the predecessor.

SECTION 17.005. Section 1304.054, Occupations Code, is amended to read as follows:

Sec. 1304.054. PRESIDING OFFICER. The presiding officer of the commission [~~commissioner~~] shall designate one member of the advisory board to serve as presiding officer of the board for two years.

SECTION 17.006. Sections 1304.103(a) and (b), Occupations Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall develop a tiered schedule of annual registration fees under which a provider's registration fee is based on the number of service contracts the provider sold in this state during the preceding 12-month period.

(b) The commission shall set the amounts of the fees to cover the costs of administering this chapter. [~~The maximum fee may not exceed $2,000.~~]

SECTION 17.007. Subchapter C, Chapter 1304, Occupations Code, is amended by adding Section 1304.105 to read as follows:

Sec. 1304.105. RENEWAL. The commission shall adopt rules regarding the renewal of a registration issued under this chapter.

SECTION 17.008. Sections 1304.151(a)-(c) and (e), Occupations Code, are amended to read as follows:

(a) To ensure the faithful performance of a provider's obligations to its service contract holders, each provider must:

(1) insure the provider's service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or by a surplus lines insurer eligible to place coverage in this state under Chapter 981 [~~Article 1.14-2~~], Insurance Code;

(2) maintain a funded reserve account covering the provider's obligations under its service contracts that are issued and outstanding in this state and place in trust with the executive director [~~commissioner~~] a financial security deposit consisting of:

(A) a surety bond issued by an authorized surety;

(B) securities of the type eligible for deposit by an authorized insurer in this state;

(C) a statutory deposit of cash or cash equivalents;

(D) a letter of credit issued by a qualified financial institution; or

(E) another form of security prescribed by rules adopted by the commission [~~commissioner~~]; or

(3) maintain, or have a parent company that maintains, a net worth or stockholders' equity of at least $100 million.

(b) If the provider ensures its obligations under Subsection (a)(2), the amount maintained in the reserve account may not be less than an amount equal to 40 percent of the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in this state, minus any claims paid. The executive director [~~commissioner~~] may review and examine the reserve account. The amount of the security deposit may not be less than the greater of:

(1) $25,000; or

(2) an amount equal to five percent of the gross consideration the provider received from consumers from the sale of

all service contracts issued and outstanding in this state, minus any claims paid.

(c) If the provider ensures its obligations under Subsection (a)(3), the provider must give to the executive director [~~commissioner~~] on request:

(1) a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the preceding calendar year; or

(2) if the provider or the provider's parent company does not file with the Securities and Exchange Commission, a copy of the provider's or the provider's parent company's audited financial statements showing a net worth of the provider or its parent company of at least $100 million.

(e) The executive director [~~commissioner~~] may not require a provider to meet any additional financial security requirement.

SECTION 17.009. Section 1304.201(a), Occupations Code, is amended to read as follows:

(a) On a finding that a ground for disciplinary action exists under this chapter, the commission [~~commissioner~~] may impose an administrative sanction, including an administrative penalty, as provided by Chapter 51.

SECTION 17.010. The following laws are repealed:

(1) Section 1304.002(3), Occupations Code; and

(2) Section 1304.201(b), Occupations Code.

SECTION 17.011. The changes in law made by this article applying to members of the Service Contract Providers Advisory

Board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 18. STAFF LEASING SERVICES

SECTION 18.001. Section 91.001, Labor Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Executive director" means the executive director of the department.

SECTION 18.002. Sections 91.002(a) and (b), Labor Code, are amended to read as follows:

(a) The commission [~~commissioner~~] shall adopt rules as necessary to administer this chapter.

(b) Each person who offers staff leasing services is subject to this chapter and the rules adopted by the commission [~~commissioner~~].

SECTION 18.003. Subchapter A, Chapter 91, Labor Code, is amended by adding Section 91.008 to read as follows:

Sec. 91.008. APPLICABILITY OF CONTINUING EDUCATION LAW. Section 51.405, Occupations Code, does not apply to this chapter.

SECTION 18.004. Section 91.016(b), Labor Code, is amended to read as follows:

(b) A license issued or renewed by the department under this chapter is valid for one year [~~two years~~] from the date of the issuance or renewal. The department shall renew a license on

receipt of a complete renewal application form and payment of the license renewal fee.

SECTION 18.005. Section 91.017(a), Labor Code, is amended to read as follows:

(a) Each applicant for an original or renewal staff leasing services company license shall pay to the department before the issuance of the license or license renewal a fee set by the commission by rule [~~in an amount not to exceed $6,000 for the two-year license period~~].

SECTION 18.006. Sections 91.018(b) and (d), Labor Code, are amended to read as follows:

(b) A license holder may change the license holder's licensed name at any time by notifying the department and paying a fee for each change of name. The commission by rule shall set the fee for a name change [~~in an amount not to exceed $50~~]. A license holder may change the license holder's name on renewal of the license without the payment of the name change fee.

(d) A license holder may amend the name specified in its license to add a trade name, trademark, service mark, or parent company name. An amendment made under this subsection must comply with the requirements imposed under Subsection (a). The department may charge a fee [~~not to exceed $50~~] for processing of such an amendment.

SECTION 18.007. Section 91.019(a), Labor Code, is amended to read as follows:

(a) The commission [~~commissioner~~] by rule shall provide for the issuance of a limited license to a person who seeks to offer

limited staff leasing services in this state.

SECTION 18.008. Section 91.020, Labor Code, is amended to read as follows:

Sec. 91.020. GROUNDS FOR DISCIPLINARY ACTION. [~~(a)~~] The department may take disciplinary action against a license holder on any of the following grounds:

(1) [~~being convicted or having a controlling person of the license holder who is convicted of:~~

[~~(A) bribery, fraud, or intentional or material misrepresentation in obtaining, attempting to obtain, or renewing a license;~~

[~~(B) a crime that relates to the operation of a staff leasing service or the ability of the license holder or any controlling person of the license holder to operate a staff leasing service;~~

[~~(C) a crime that relates to the classification, misclassification, or under-reporting of employees under Subtitle A, Title 5;~~

[~~(D) a crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance; or~~

[~~(E) a crime that relates to fraud, deceit, or misconduct in the operation of a staff leasing service;~~

[~~(2)~~] engaging in staff leasing services or offering to engage in the provision of staff leasing services without a license;

(2) [~~(3)~~] transferring or attempting to transfer a

license issued under this chapter;

(3) [~~(4)~~] violating this chapter or any order or rule issued by the executive director [~~department~~] or commission [~~commissioner~~] under this chapter;

(4) [~~(5)~~] failing after the 31st day after the date on which a felony conviction of a controlling person is final to notify the department in writing of the conviction;

(5) [~~(6)~~] failing to cooperate with an investigation, examination, or audit of the license holder's records conducted by the license holder's insurance company or the insurance company's designee, as allowed by the insurance contract or as authorized by law by the Texas Department of Insurance;

(6) [~~(7)~~] failing after the 31st day after the effective date of a change in ownership, principal business address, or the address of accounts and records to notify the department and the Texas Department of Insurance of the change;

(7) [~~(8)~~] failing to correct any tax filings or payment deficiencies within a reasonable time as determined by the executive director [~~commissioner~~];

(8) [~~(9)~~] refusing, after reasonable notice, to meet reasonable health and safety requirements within the license holder's control and made known to the license holder by a federal or state agency;

(9) [~~(10)~~] being delinquent in the payment of the license holder's insurance premiums other than those subject to a legitimate dispute;

(10) [~~(11)~~] being delinquent in the payment of any

employee benefit plan premiums or contributions other than those subject to a legitimate dispute;

(11) [~~(12)~~] knowingly making a material misrepresentation to an insurance company or to the department or other governmental agency;

(12) [~~(13)~~] failing to maintain the net worth requirements required under Section 91.014; or

(13) [~~(14)~~] using staff leasing services to avert or avoid an existing collective bargaining agreement.

[~~(b) For purposes of this section, "conviction" includes a plea of nolo contendere or a finding of guilt, regardless of adjudication.~~]

SECTION 18.009. Section 91.041(c), Labor Code, is amended to read as follows:

(c) The commission [~~commissioner~~] by rule may require a license holder to file other reports that are reasonably necessary for the implementation of this chapter.

SECTION 18.010. The following laws are repealed:

(1) Section 91.001(5), Labor Code; and

(2) Section 91.021, Labor Code.

SECTION 18.011. The change in law made by this article to Section 91.016(b), Labor Code, applies only to a license issued or renewed on or after the effective date of this Act. A license issued or renewed before the effective date of this Act is governed by that section as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 19. TALENT AGENCIES

SECTION 19.001. Section 2105.001, Occupations Code, is amended by amending Subdivision (2) and adding Subdivision (3-a) to read as follows:

(2) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing and regulation~~].

(3-a) "Executive director" means the executive director of the department.

SECTION 19.002. Section 2105.002, Occupations Code, is amended to read as follows:

Sec. 2105.002. POWERS AND DUTIES [~~OF DEPARTMENT~~]. (a) The executive director [~~department~~] shall[~~:~~

[~~(1)~~] prescribe application forms for original and renewal certificates of registration.

(b) The commission shall:[~~;~~]

(1) [~~(2)~~] set application and registration fees in amounts that are reasonable and necessary to defray the costs of administering this chapter; and

(2) [~~(3)~~] adopt rules as necessary to implement this chapter.

(c) [~~(b)~~] The commission [~~department~~] may[~~:~~

[~~(1)~~] adopt rules as necessary to administer the registration program created under this chapter.

(d) The department may[~~; and~~

[~~(2)~~] take other action as necessary to enforce this chapter.

SECTION 19.003. Subchapter A, Chapter 2105, Occupations

Code, is amended by adding Section 2105.003 to read as follows:

Sec. 2105.003. APPLICABILITY OF OTHER LAW. Section 51.405 does not apply to this chapter.

SECTION 19.004. Section 2105.053, Occupations Code, is amended to read as follows:

Sec. 2105.053. REGISTRATION FEE. The department may charge a talent agency a reasonable fee [~~not to exceed $100~~] to cover the cost of filing a registration statement or an update of a registration statement.

SECTION 19.005. Section 2105.104, Occupations Code, is amended to read as follows:

Sec. 2105.104. AGENCY RECORDS. A certificate holder shall maintain records relating to the operation of the talent agency as required by commission [~~department~~] rule.

SECTION 19.006. Section 2105.105(b), Occupations Code, is amended to read as follows:

(b) Funds deposited under this section may be disbursed only as prescribed by commission [~~department~~] rule.

SECTION 19.007. The following laws are repealed:

(1) Sections 2105.055(b) and (c), Occupations Code;

(2) Sections 2105.056(a), (b), and (c), Occupations Code; and

(3) Section 2105.252, Occupations Code.

ARTICLE 20. TEMPORARY COMMON WORKER EMPLOYERS

SECTION 20.001. Section 92.002, Labor Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive

director of the department.

SECTION 20.002. Subchapter A, Chapter 92, Labor Code, is amended by adding Section 92.004 to read as follows:

Sec. 92.004. APPLICABILITY OF OTHER LAW. Section 51.405, Occupations Code, does not apply to this chapter.

SECTION 20.003. Section 92.022(c), Labor Code, is amended to read as follows:

(c) Information received by the commission [~~commissioner~~] or department under this section is privileged and confidential and is for the exclusive use of the commission [~~commissioner~~] or department. The information may not be disclosed to any other person except on the entry of a court order requiring disclosure or on the written consent of a person under investigation who is the subject of the records.

SECTION 20.004. The following laws are repealed:

(1) Section 92.002(2), Labor Code; and

(2) Sections 92.015(b) and (c), Labor Code.

ARTICLE 21. TRANSPORTATION SERVICE PROVIDERS

SECTION 21.001. Section 2401.001(2), Occupations Code, is amended to read as follows:

(2) "Department" means the [~~Texas~~] Department of Public Safety [~~Licensing and Regulation~~].

SECTION 21.002. The heading to Subchapter B, Chapter 2401, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF COMMISSION, COMMISSIONER, AND DEPARTMENT~~]

SECTION 21.003. Section 2401.052, Occupations Code, is

amended to read as follows:

Sec. 2401.052. EXAMINATION OR AUDIT. (a) To administer this chapter, the department may:

(1) examine:

(A) a record maintained under Section 2401.152; or

(B) a record or object the department determines is necessary to conduct a complete examination; or

(2) question under oath any person who[~~:~~

[~~(A)~~] is associated with the business of a transportation service provider[~~; or~~

[~~(B) claims the person was negatively affected by a violation of this chapter committed by a transportation service provider~~].

(b) The department may periodically audit the business records of a transportation service provider [~~registered under this chapter~~].

SECTION 21.004. Section 2401.251, Occupations Code, is amended to read as follows:

Sec. 2401.251. CIVIL PENALTY. A transportation service provider who knowingly violates this chapter [~~or a rule adopted under this chapter~~] is liable for a civil penalty of not less than $100 or more than $500 for each violation.

SECTION 21.005. Section 2401.253, Occupations Code, is amended to read as follows:

Sec. 2401.253. AUTHORITY TO INVESTIGATE AND FILE COMPLAINT. (a) The department [~~commissioner, with the assistance of the Texas~~

~~Department of Public Safety,~~] may investigate a violation of this chapter [~~or a rule adopted under this chapter~~].

(b) Any [~~The commissioner or any~~] law enforcement agency may file a complaint with:

(1) the district attorney of Travis County; or

(2) the prosecuting attorney of the county in which a violation is alleged to have occurred.

SECTION 21.006. The following laws are repealed:

(1) Section 2401.001(1), Occupations Code;

(2) Section 2401.051, Occupations Code;

(3) Section 2401.053, Occupations Code;

(4) Section 2401.054, Occupations Code;

(5) Subchapter C, Chapter 2401, Occupations Code;

(6) Section 2401.151, Occupations Code; and

(7) Subchapter E, Chapter 2401, Occupations Code.

SECTION 21.007. (a) On November 1, 2003:

(1) all functions and activities relating to Chapter 2401, Occupations Code, performed by the Texas Department of Licensing and Regulation immediately before that date are transferred to the Department of Public Safety;

(2) a reference in law or an administrative rule to the Texas Department of Licensing and Regulation that relates to Chapter 2401, Occupations Code, means the Department of Public Safety;

(3) a complaint, investigation, or other proceeding before the Texas Department of Licensing and Regulation that is related to Chapter 2401, Occupations Code, is transferred without

change in status to the Department of Public Safety, and the Department of Public Safety assumes, as appropriate and without a change in status, the position of the Texas Department of Licensing and Regulation in an action or proceeding to which the Texas Department of Licensing and Regulation is a party;

(4) all money, contracts, leases, property, and obligations of the Texas Department of Licensing and Regulation related to Chapter 2401, Occupations Code, are transferred to the Department of Public Safety;

(5) all property in the custody of the Texas Department of Licensing and Regulation related to Chapter 2401, Occupations Code, is transferred to the Department of Public Safety; and

(6) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Department of Licensing and Regulation related to Chapter 2401, Occupations Code, is transferred to the Department of Public Safety.

(b) An offense or other violation related to Chapter 2401, Occupations Code, committed before the effective date of this Act is covered by the law as it existed on the date on which the offense or other violation was committed, and the former law is continued in effect for that purpose.

(c) Before November 1, 2003, the Texas Department of Licensing and Regulation may agree with the Department of Public Safety to transfer any property of the Texas Department of Licensing and Regulation to the Department of Public Safety to implement the transfer required by this article.

(d) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Department of Licensing and Regulation shall continue to perform functions and activities under Chapter 2401, Occupations Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 22. UNDERGROUND STORAGE TANK OPERATORS

SECTION 22.001. Section 26.451, Water Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Department" means the Texas Department of Licensing and Regulation.

SECTION 22.002. Sections 26.452(a) and (b), Water Code, are amended to read as follows:

(a) A person who offers to undertake, represents that the person is able to undertake, or undertakes to install, repair, or remove an underground storage tank must hold a registration issued by the department [~~commission~~] under Chapter 51, Occupations Code [~~37~~]. If the person is a partnership or joint venture, it need not register in its own name if each partner or joint venture is registered.

(b) An underground storage tank contractor must have an on-site supervisor who is licensed by the department [~~commission~~] under Chapter 51, Occupations Code, [~~37~~] at the site at all times during the critical junctures of the installation, repair, or removal.

SECTION 22.003. Section 26.456(a), Water Code, is amended to read as follows:

(a) A person supervising the installation, repair, or removal of an underground storage tank must hold a license issued by the department [~~commission~~] under Chapter 51, Occupations Code [~~37~~].

SECTION 22.004. (a) On November 1, 2003:

(1) all functions and activities relating to Subchapter K, Chapter 26, Water Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Subchapter K, Chapter 26, Water Code, is transferred

without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on

Environmental Quality shall continue to perform functions and activities under Subchapter K, Chapter 26, Water Code, as if that subchapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 23. VEHICLE PROTECTION PRODUCT WARRANTORS

SECTION 23.001. Section 2, Article 9035, Revised Statutes, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 23.002. Article 9035, Revised Statutes, is amended by adding Section 3A to read as follows:

Sec. 3A. APPLICABILITY OF OTHER LAW. Section 51.405, Occupations Code, does not apply to this article.

SECTION 23.003. Section 4, Article 9035, Revised Statutes, is amended to read as follows:

Sec. 4. POWERS AND DUTIES [~~OF COMMISSIONER~~]. (a) The commission [~~commissioner~~] may adopt rules as necessary to implement this article.

(b) The executive director [~~commissioner~~] may conduct investigations of warrantors or other persons as reasonably necessary to enforce this article and to protect consumers in this state. On request of the executive director [~~commissioner~~], a warrantor shall make the warrantor's records maintained under Section 10 of this article regarding vehicle protection products sold by the warrantor available to the department as necessary to enable the department to reasonably determine compliance with this article.

SECTION 23.004. Sections 5(a)-(g), Article 9035, Revised Statutes, are amended to read as follows:

(a) The Vehicle Protection Product Warrantor Advisory Board is an advisory body to the commission [~~department~~]. The advisory board shall advise[~~:~~

[~~(1)~~] the commission [~~commissioner~~] on adopting rules, [~~and~~] enforcing and administering this article,[~~;~~] and

[~~(2) the commission on~~] setting fees.

(b) The advisory board consists of six members appointed by the presiding officer of the commission [~~commissioner~~] as follows:

(1) two members who are officers, directors, or employees of a warrantor who has been approved or expects to be approved by the department;

(2) two members who are officers, directors, or employees of a retail outlet or other entity located in this state that sells vehicle protection products and is approved or expected to be approved by the department; and

(3) two members who are residents of this state and, at the time of appointment, are consumers of vehicle protection products issued by warrantors registered or expected to be registered under this article.

(c) Members of the advisory board serve staggered six-year terms, with the terms of two members expiring on February 1 of each odd-numbered year. [~~The commissioner shall appoint the initial six board members to terms of six years or less in order to create staggered terms for the subsequent members of the advisory board.~~]

(d) The presiding officer of the commission [~~commissioner~~]

shall designate one member of the advisory board to serve as presiding officer of the board for two years.

(e) The executive director [~~commissioner~~] or the executive director's [~~commissioner's~~] designee serves as an ex officio nonvoting member of the advisory board.

(f) The presiding officer of the commission [~~commissioner~~] shall fill any vacancy on the advisory board by appointing an individual who meets the qualifications for the vacant advisory board position to serve the remainder of the unexpired term.

(g) The advisory board shall meet at least every six months and may meet at other times at the call of the presiding officer of the board or the presiding officer of the commission [~~commissioner~~]. The advisory board shall meet at a location in this state designated by the [~~advisory~~] board.

SECTION 23.005. Sections 6(c) and (d), Article 9035, Revised Statutes, are amended to read as follows:

(c) Each registered warrantor shall pay an annual registration fee [~~not to exceed $2,500~~] as set by the commission to cover the costs of administering this article. The department shall develop a tiered fee structure under which registration fees are assessed on warrantors based on the number of vehicle protection products sold within this state in the 12 months preceding the date of registration. The information submitted to the department under this section regarding the number of vehicle protection products sold by a warrantor may only be used by the department in determining the tiered fee structure. Information concerning the number of vehicle protection products sold by a

warrantor submitted under this section is a trade secret and subject to Section 552.110, Government Code.

(d) The commission [~~commissioner~~] shall adopt rules providing for the renewal of a warrantor's registration.

SECTION 23.006. Section 10(e), Article 9035, Revised Statutes, is amended to read as follows:

(e) The commission [~~commissioner~~] shall adopt rules governing how a warrantor shall protect nonpublic personal information provided by a consumer to the warrantor.

SECTION 23.007. Sections 16(a) and (c), Article 9035, Revised Statutes, are amended to read as follows:

(a) The executive director [~~commissioner~~] may bring an action against a warrantor for injunctive relief under Section 51.352, Occupations Code, for a threatened or existing violation of this article or of the [~~commissioner's~~] orders or rules adopted under this article.

(c) For purposes of this section [~~and Section 15 of this article~~], violations are of a similar nature if the violations consist of the same or a similar course of conduct, action, or practice, regardless of the number of times the conduct, act, or practice determined to be a violation of this article occurred.

SECTION 23.008. The following laws are repealed:

(1) Section 2(2), Article 9035, Revised Statutes; and

(2) Section 15, Article 9035, Revised Statutes.

SECTION 23.009. The changes in law made by this article applying to members of the Vehicle Protection Product Warrantor Advisory Board do not affect the entitlement of a member serving on

the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 24. WATER TREATMENT SPECIALISTS

SECTION 24.001. Section 341.034(e), Health and Safety Code, is amended to read as follows:

(e) Unless the person is licensed by the Texas State Board of Plumbing Examiners, a person must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code, if, under a contract, the person:

(1) installs, exchanges, connects, maintains, or services potable water treatment equipment and appliances in public or private water systems; or

(2) analyzes water to determine how to treat influent or effluent water, alter or purify water, or add or remove a mineral, chemical, or bacterial content or substance as part of the complete installation, exchange, connection, maintenance, or service of potable water treatment equipment and appliances.

SECTION 24.002. Section 341.101, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation.

SECTION 24.003. Section 341.103, Health and Safety Code, is amended to read as follows:

Sec. 341.103. CERTIFICATION REQUIRED. A person may not engage in water treatment unless the person first obtains a certificate from the department [~~commission~~] under the program established under this subchapter.

SECTION 24.004. Section 341.104, Health and Safety Code, is amended to read as follows:

Sec. 341.104. APPLICATION FOR CERTIFICATION. A person desiring to obtain certification under the program established under this subchapter shall file with the department [~~commission~~]:

(1) an application in the form prescribed by the department [~~commission~~] and containing the information required by the department [~~commission~~]; and

(2) the appropriate certification fee.

SECTION 24.005. Section 341.105(a), Health and Safety Code, is amended to read as follows:

(a) On receipt of an application that meets department [~~commission~~] requirements and the required fee, the department [~~commission~~] shall issue to a person who meets department [~~commission~~] standards for certification a certificate stating that the person is qualified to install, exchange, service, and repair residential, commercial, or industrial water treatment facilities.

SECTION 24.006. Section 3, Chapter 504, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 24.007. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is transferred without change in status to the Texas Department of Licensing and

Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this

Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, as if those provisions had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 25. WATER WELL DRILLERS

SECTION 25.001. Section 1901.001, Occupations Code, is amended by adding Subdivisions (7-a) and (7-b) to read as follows:

(7-a) "Executive director" means the executive director of the department.

(7-b) "Groundwater conservation district" means a district to which Chapter 36, Water Code, applies.

SECTION 25.002. Section 1901.052, Occupations Code, is amended to read as follows:

Sec. 1901.052. RULES. (a) The commission [~~commissioner~~], with advice and comment from the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality, shall adopt rules as necessary to enforce this chapter, including rules governing:

(1) license applications;

(2) qualifications of applicants;

(3) standards of conduct for drillers, including standards for marking well drilling rigs and equipment; and

(4) procedures and practices before the department.

(b) The commission [~~commissioner~~] may not adopt a rule under this chapter that:

(1) regulates the installation or repair of well pumps and equipment by:

(A) a person on property the person owns or controls for the person's own use;

(B) an employee of a person described by Paragraph (A); or

(C) a person who is not hired or compensated and who acts on behalf of a person described by Paragraph (A); or

(2) requires a person who owns or controls property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

SECTION 25.003. Section 1901.101(a), Occupations Code, is amended to read as follows:

(a) The Texas Water Well Drillers Advisory Council consists of nine members appointed by the presiding officer of the commission [~~department~~] as follows:

(1) six members who are drillers experienced in the well drilling business and familiar with well drilling, completion, and plugging methods and techniques; and

(2) three public members.

SECTION 25.004. Section 1901.105, Occupations Code, is amended to read as follows:

Sec. 1901.105. PRESIDING OFFICER. The presiding officer of the commission [~~council~~] shall appoint [~~elect~~] a member of the council to serve as presiding officer of the council for two years

[~~by a majority vote at the first meeting each year~~].

SECTION 25.005. Sections 1901.109(a) and (d), Occupations Code, are amended to read as follows:

(a) The council may propose rules for adoption by the commission [~~commissioner~~] relating to the regulation of drillers registered under this chapter.

(d) The council shall assist the commission [~~department~~] in evaluating continuing education programs.

SECTION 25.006. Section 1901.152(b), Occupations Code, is amended to read as follows:

(b) An applicant must pay to the department an [~~a nonrefundable~~] examination fee at the time the application is submitted.

SECTION 25.007. Section 1901.162, Occupations Code, is amended to read as follows:

Sec. 1901.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. The commission [~~commissioner~~] may adopt rules allowing waiver of a license requirement for an applicant who is licensed in another state that has license requirements substantially equivalent to those of this state.

SECTION 25.008. Section 1901.251(a), Occupations Code, is amended to read as follows:

(a) Each driller who drills, deepens, or otherwise alters a water well in this state shall make and keep a legible and accurate well log in accordance with rules adopted by the commission and on forms prescribed by the executive director [~~commissioner~~]. The well log shall be recorded at the time of drilling, deepening, or

otherwise altering the well and must contain:

(1) the depth, thickness, and character of the strata penetrated;

(2) the location of water-bearing strata;

(3) the depth, size, and character of casing installed; and

(4) any other information required by rules adopted by the commission [~~commissioner~~].

SECTION 25.009. Section 1901.252(b), Occupations Code, is amended to read as follows:

(b) The commission [~~commissioner~~] shall adopt rules specifying the manner for marking a rig.

SECTION 25.010. Section 1901.253, Occupations Code, is amended to read as follows:

Sec. 1901.253. COMPLETING WATER WELL. A driller shall complete a well under standards and procedures adopted by the commission [~~commissioner~~].

SECTION 25.011. Section 1901.254(b), Occupations Code, is amended to read as follows:

(b) The driller shall ensure that the well is plugged, repaired, or properly completed under standards and procedures adopted by the commission [~~commissioner~~].

SECTION 25.012. Section 1901.255, Occupations Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) Not later than the 180th day after the date a landowner or other person who possesses an abandoned or deteriorated well

learns of its condition, the landowner or other person shall have the well plugged or capped under standards and procedures adopted by the commission [~~commissioner~~].

(d) Not later than the 30th day after the date the well is plugged, a [~~A~~] driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a plugging report to:

(1) the board of directors of the groundwater conservation district in which the well is located, if the well is located in the boundaries of a groundwater conservation district; and

(2) the executive director [~~commissioner not later than the 30th day after the date the well is plugged~~].

(e) The department or the groundwater conservation district in which the well is located shall furnish plugging report forms on request. The executive director shall prescribe the content of the forms.

SECTION 25.013. Subchapter F, Chapter 1901, Occupations Code, is amended by adding Section 1901.256 to read as follows:

Sec. 1901.256. ENFORCEMENT BY GROUNDWATER CONSERVATION DISTRICT. (a) This section applies only to a violation related to a well located in the boundaries of the groundwater conservation district seeking to bring an action under this section.

(b) A groundwater conservation district shall enforce compliance with Section 1901.255 related to wells located in the boundaries of the district.

(c) A groundwater conservation district may bring an action

to enjoin a person from violating Section 1901.255.

(d) A groundwater conservation district may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter that is related to Section 1901.255.

(e) A groundwater conservation district may bring an action to recover a civil penalty under Section 1901.401 for a violation of this chapter or a rule adopted under this chapter related to Section 1901.255.

(f) The groundwater conservation district may bring the action in the county in which:

(1) the offending activity occurred; or

(2) the person engaging in the activity resides.

SECTION 25.014. Subchapter F, Chapter 1901, Occupations Code, is amended by adding Section 1901.257 to read as follows:

Sec. 1901.257. MEMORANDUM OF UNDERSTANDING REGARDING ABANDONED WELLS. (a) In this section, "abandoned well" and "deteriorated well" have the meanings assigned by Section 1901.255.

(b) The Texas Commission on Environmental Quality and the department shall by rule adopt or revise a joint memorandum of understanding to coordinate the efforts of the department, groundwater conservation districts, and the field offices of the Texas Commission on Environmental Quality relating to investigative procedures for referrals of complaints regarding abandoned and deteriorated wells.

(c) Each groundwater conservation district in which an abandoned or deteriorated well is located shall join the memorandum

of understanding adopted under Subsection (b).

SECTION 25.015. Section 1901.301, Occupations Code, is amended to read as follows:

Sec. 1901.301. GROUNDS FOR DISCIPLINARY ACTION. The commission [~~commissioner~~] may discipline a person under Section 51.353 for a violation of this chapter or a rule adopted under this chapter, including:

(1) an intentional misstatement or misrepresentation of a fact on an application or well log or to a person for whom a well is being drilled, deepened, or otherwise altered;

(2) the failure to keep, deliver, or send a well log as required by Section 1901.251;

(3) the failure to advise a person for whom a well is being drilled that:

(A) injurious water has been encountered;

(B) the water is a pollution hazard; and

(C) the well must be immediately plugged in an acceptable manner; or

(4) the failure to complete a well in accordance with standards and procedures adopted by the commission [~~commissioner~~].

SECTION 25.016. The following laws are repealed:

(1) Section 1901.001(2), Occupations Code;

(2) Section 1901.109(e), Occupations Code;

(3) Section 1901.155(b), Occupations Code;

(4) Section 1901.156, Occupations Code;

(5) Section 1901.157, Occupations Code;

(6) Section 1901.160, Occupations Code;

(7) Section 1901.205, Occupations Code;

(8) Section 1901.302, Occupations Code;

(9) Section 1901.303, Occupations Code;

(10) Section 1901.304, Occupations Code; and

(11) Subchapter H, Chapter 1901, Occupations Code.

SECTION 25.017. The changes in law made to Section 1901.255, Occupations Code, by this article do not affect the status of a complaint, investigation, or other proceeding that commenced before September 1, 2003. A groundwater conservation district, as appropriate and without a change in status, assumes the position of the executive director of the Texas Department of Licensing and Regulation in an action or proceeding relating to a well located in the boundaries of that groundwater conservation district.

SECTION 25.018. The changes in law made by this article applying to members of the Texas Water Well Drillers Advisory Council do not affect the entitlement of a member serving on the council immediately before September 1, 2003, to continue to serve and function as a member of the council for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 26. WATER WELL PUMP INSTALLERS

SECTION 26.001. Section 1902.001, Occupations Code, is amended by adding Subdivision (4-a) to read as follows:

<u>(4-a) "Executive director" means the executive director of the department.</u>

SECTION 26.002. Section 1902.051, Occupations Code, is

amended to read as follows:

Sec. 1902.051. LICENSING. (a) The department, with the advice of the council, shall prepare licensing examinations.

(b) The department shall [~~and~~] evaluate the qualifications of license applicants.

(c) [~~(b)~~] The executive director [~~commissioner~~] shall issue licenses to applicants who qualify.

SECTION 26.003. Section 1902.052, Occupations Code, is amended to read as follows:

Sec. 1902.052. RULES. (a) The commission [~~commissioner~~] shall adopt rules as necessary to enforce this chapter.

(b) The commission [~~commissioner~~] may not adopt a rule under this chapter that:

(1) regulates the installation or repair of well pumps and equipment by:

(A) a person on property the person owns or controls for the person's own use;

(B) an employee of a person described by Paragraph (A); or

(C) a person who is not hired or compensated and who acts on behalf of a person described by Paragraph (A); or

(2) requires a person who owns or controls property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

SECTION 26.004. Section 1902.152(b), Occupations Code, is

amended to read as follows:

(b) An applicant must pay to the department an [~~a nonrefundable~~] examination fee at the time the application is submitted.

SECTION 26.005. Section 1902.162, Occupations Code, is amended to read as follows:

Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. The commission [~~commissioner~~] may adopt rules allowing waiver of a license requirement for an applicant who is licensed in another state that has license requirements substantially equivalent to those of this state.

SECTION 26.006. Section 1902.251, Occupations Code, is amended to read as follows:

Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An installer shall install or repair pumps under standards and procedures adopted by the commission [~~commissioner~~] with the advice of the council.

SECTION 26.007. Section 1902.252(b), Occupations Code, is amended to read as follows:

(b) To avoid injury or pollution, the installer shall repair or properly complete the well under standards and procedures adopted by the commission [~~commissioner~~].

SECTION 26.008. The following laws are repealed:

(1) Section 1902.001(2), Occupations Code;

(2) Section 1902.101, Occupations Code;

(3) Section 1902.155(b), Occupations Code;

(4) Section 1902.156, Occupations Code;

(5) Section 1902.157, Occupations Code;

(6) Section 1902.160, Occupations Code;

(7) Section 1902.204, Occupations Code; and

(8) Subchapters G and H, Chapter 1902, Occupations Code.

ARTICLE 27. WEATHER MODIFICATION

SECTION 27.001. Section 1.01, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended by amending Subdivision (1) and adding Subdivision (2-a) to read as follows:

(1) "Commission" [~~"Commissioner"~~] has the meaning assigned by Section 51.001, Occupations Code.

(2-a) "Executive director" means the executive director of the department.

SECTION 27.002. Article 1, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended by adding Section 1.02 to read as follows:

Sec. 1.02. APPLICABILITY OF OTHER LAW. Sections 51.404 and 51.405, Occupations Code, do not apply to this article.

SECTION 27.003. Section 1.11, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.11. RULES. The commission [~~department~~] may adopt rules necessary to:

(1) exercise the powers and perform the duties under this article;

(2) establish procedures and conditions for the issuance of licenses and permits under this article; and

(3) establish standards and instructions to govern the carrying out of research or projects in weather modification and control that the commission [~~department~~] considers necessary or desirable to minimize danger to health or property.

SECTION 27.004. Section 1.13, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.13. ADVISORY COMMITTEES. The commission [~~department~~] may establish advisory committees to advise the commission [~~department~~] and to make recommendations to the commission [~~department~~] concerning legislation, policies, administration, research, and other matters related to the department's duties, powers, or functions under this article. If the commission establishes an advisory committee under this section, the presiding officer of the commission shall appoint a member of the committee to serve as the presiding officer of the committee for a two-year term.

SECTION 27.005. Section 1.16, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.16. INTERSTATE COMPACTS. The commission [~~commissioner~~] may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control.

SECTION 27.006. Section 1.18(b), Chapter 376, Acts of the

77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The department with approval of the commission [~~commissioner~~] may conduct and may contract for research and development activities relating to the purposes of this section.

SECTION 27.007. Section 1.31, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.31. LICENSE AND PERMIT REQUIRED. Except as provided by rule of the commission [~~department~~] under Section 1.32 of this article, a person may not engage in activities for weather modification and control:

(1) without a weather modification license and weather modification permit issued by the department; or

(2) in violation of any term or condition of the license or permit.

SECTION 27.008. Section 1.32, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.32. EXEMPTIONS. (a) The commission [~~department~~] by rule, to the extent it considers exemptions practical, shall provide for exempting the following activities from the license and permit requirements of this article:

(1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;

(2) laboratory research and experiments;

(3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and

(4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail.

(b) The commission [~~department~~] by rule may modify or revoke an exemption.

SECTION 27.009. Section 1.41(v), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

(v) The commission [~~department~~] by rule shall define hail suppression as used in this section, using the most current scientifically accepted technological concepts.

SECTION 27.010. Section 1.64, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.64. PROCEDURES. The commission [~~department~~] by rule shall establish procedures for public notice and any public hearing under this subchapter.

SECTION 27.011. Section 1.65, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.65. HEARINGS. A hearing under this article [~~subchapter~~] shall be conducted in accordance with the hearing rules adopted by the commission [~~department~~] and the applicable provisions of Chapters 51, Occupations Code, and [~~Chapter~~] 2001, Government Code.

SECTION 27.012. Section 1.66, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.66. CONSENT. If a permit holder or license holder requests or consents to the revocation or suspension of the permit or license, the commission [~~commissioner~~] may revoke or suspend the permit or license without a hearing.

SECTION 27.013. The following laws are repealed:

(1) Section 1.34, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes);

(2) Section 1.38, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes); and

(3) Section 1.68, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes).

ARTICLE 28. CONFORMING AMENDMENTS RELATED TO CERTAIN PROGRAMS TRANSFERRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 28.001. The heading to Chapter 37, Water Code, is amended to read as follows:

CHAPTER 37. OCCUPATIONAL LICENSING AND REGISTRATION PROGRAMS ADMINISTERED BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 28.002. Section 37.002, Water Code, is amended to read as follows:

Sec. 37.002. RULES. The commission shall adopt any rules necessary to:

(1) establish occupational licenses and registrations prescribed by Sections 26.0301 and [~~,~~] 26.3573 [~~, 26.452, 26.456, and 34.007~~] of this code and Sections 341.033, 341.034(a) and (b) [~~341.034~~], 361.027, and 366.071, Health and Safety Code;

(2) establish classes and terms of occupational licenses and registrations; and

(3) administer the provisions of this chapter and other laws governing occupational licenses and registrations under the commission's jurisdiction.

SECTION 28.003. Section 37.003, Water Code, is amended to read as follows:

Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person may not engage in a business, occupation, or profession described by Section 26.0301 or [~~,~~] 26.3573 [~~, 26.452, 26.456, or 34.007~~] of this code or Section 341.033, 341.034(a) or (b) [~~341.034~~], 361.027, 366.014, or 366.071, Health and Safety Code, unless the person holds the appropriate license or registration issued by the commission.

SECTION 28.004. Subtitle F, Title 2, Water Code, is amended by adding Chapter 38 to read as follows:

CHAPTER 38. OCCUPATIONAL LICENSING PROGRAMS ADMINISTERED BY TEXAS DEPARTMENT OF LICENSING AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 38.001. DEFINITIONS. In this chapter, terms have the meanings assigned by Section 51.001, Occupations Code.

[Sections 38.002-38.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 38.051. ADMINISTRATION. The department shall administer this chapter.

Sec. 38.052. RULES. The commission shall adopt any rules necessary to:

(1) establish occupational licenses prescribed by Sections 26.452 and 26.456 of this code and Sections 341.034(c), (d), and (e), Health and Safety Code; and

(2) establish classes and terms of occupational licenses.

Sec. 38.053. CONTRACTS. The department may contract with persons to provide services required by this chapter. The department may authorize contractors to collect reasonable fees for the services provided.

Sec. 38.054. COMPLIANCE INFORMATION. In administering this chapter, the department may require a person to provide information about any other occupational license held by the person, including:

(1) the state in which the license was issued;

(2) the current status of the license; and

(3) whether the license was ever denied, suspended, revoked, surrendered, or withdrawn.

Sec. 38.055. ROSTER OF LICENSE HOLDERS. The department shall maintain and make available to the public a roster of persons who hold licenses issued under this chapter.

[Sections 38.056-38.100 reserved for expansion]

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 38.101. LICENSE REQUIRED. A person may not engage in a business, occupation, or profession described by Section 26.452 or

26.456 of this code or Section 341.034(c), (d), or (e), Health and Safety Code, unless the person holds the appropriate license.

Sec. 38.102. QUALIFICATIONS. The commission may establish qualifications for each license issued under this chapter.

Sec. 38.103. ISSUANCE AND DENIAL OF LICENSES. (a) The commission shall establish requirements and uniform procedures for issuing licenses under this chapter.

(b) After notice and hearing, the commission may deny an application for a license by an applicant who:

(1) has a record in the preceding five years of continuing violations of statutes or rules adopted under statutes;

(2) has engaged in fraud or deceit in obtaining or applying for a license;

(3) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license;

(4) made an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the license holder;

(5) failed to keep and transmit records as required by a statute or a rule adopted under a statute; or

(6) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute or a rule adopted under a statute.

Sec. 38.104. RENEWAL OF LICENSE. The commission shall establish requirements and uniform procedures for renewing licenses.

Sec. 38.105. LICENSING EXAMINATIONS. (a) The department shall prescribe the content of licensing examinations. The department shall base the examinations on laws, rules, job duties, and standards relating to licenses issued under this chapter.

(b) The department shall determine the location and frequency of examinations.

(c) The department shall ensure that an otherwise qualified person with a physical, mental, or developmental disability is provided with a reasonable opportunity to take a licensing examination.

ARTICLE 29. GENERAL CONFORMING AMENDMENTS

SECTION 29.001. Section 57.044, Government Code, is amended to read as follows:

Sec. 57.044. COURT INTERPRETER LICENSE. To qualify for a court interpreter license under this subchapter, an individual must apply on a form prescribed by the executive director [~~commissioner~~] and demonstrate, in the manner required by the executive director [~~commissioner~~], reasonable proficiency in interpreting English and court proceedings for individuals who can hear but who do not comprehend English or communicate in English.

SECTION 29.002. Sections 57.046(a) and (c), Government Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall prepare examinations under this subchapter that test an applicant's knowledge, skill, and efficiency in interpreting under this subchapter.

(c) Examinations shall be offered in the state at least

twice a year at times and places designated by the executive director [~~commissioner~~].

SECTION 29.003. The heading to Section 57.047, Government Code, is amended to read as follows:

Sec. 57.047. [~~COMMISSIONER AND~~] DEPARTMENT DUTIES; INSPECTIONS.

SECTION 29.004. Section 57.047(a), Government Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall enforce this subchapter.

SECTION 29.005. Section 754.020, Health and Safety Code, is amended to read as follows:

Sec. 754.020. DEPOSIT OF FEES. Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the executive director [~~commissioner~~] only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter.

SECTION 29.006. Section 754.021, Health and Safety Code, is amended to read as follows:

Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. The executive director [~~commissioner~~] may:

(1) compile a list of ASME-QEI-1 certified inspectors who are registered with the department to perform an inspection under this subchapter; and

(2) employ personnel as necessary to enforce this subchapter.

SECTION 29.007. Section 754.022, Health and Safety Code, is

amended to read as follows:

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the executive director [~~commissioner~~] learns of a situation of noncompliance under Section 754.019, the executive director [~~commissioner~~] shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.

SECTION 29.008. Sections 755.023(a), (c), and (d), Health and Safety Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall appoint a chief inspector of boilers to administer the boiler program. The chief inspector must:

(1) be a resident of this state and a citizen of the United States;

(2) have at least five years' experience in the construction, installation, inspection, operation, maintenance, or repair of boilers; and

(3) pass a written examination that demonstrates the necessary ability to judge the safety of boilers.

(c) As needed, the executive director [~~commissioner~~] shall appoint persons with qualifications similar to those of the chief inspector to serve as deputy inspectors.

(d) The executive director [~~commissioner~~] may employ clerical assistants as necessary to carry out this chapter.

SECTION 29.009. Sections 755.024(a), (b), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) To be an authorized inspector, a person must obtain a license [~~commission~~] as a boiler inspector from the executive director [~~commissioner~~] and must be continuously employed by an inspection agency.

(b) The executive director [~~commissioner~~], by written examination, shall determine the qualifications of an applicant for a license [~~commission~~] to be an authorized inspector.

(f) After proper investigation, the executive director [~~commissioner~~] may accept an inspection license [~~commission~~] issued to a person by any other jurisdiction that has a written examination equal to that of this state.

(g) For good cause, the executive director [~~commissioner~~] may rescind a license [~~commission~~] issued by this state.

SECTION 29.010. Sections 755.025(a), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall require each boiler to be inspected internally and externally at the time of initial installation and at subsequent intervals as provided by this section. The executive director [~~commissioner~~] may provide that the inspection be performed by any inspector.

(f) The executive director [~~commissioner~~] shall designate the manner of inspection for nuclear boilers, the form of the inspection report, and the information to be reported. The executive director [~~commissioner~~] and the owner of a nuclear boiler shall establish the intervals of inspection for the boiler.

(g) The executive director [~~commissioner~~] may authorize the inspection of a boiler at any reasonable time if the executive

director [~~commissioner~~] determines that the boiler may be in an unsafe condition. The executive director [~~commissioner~~] shall notify the inspection agency that insures that boiler and request the authorized inspector employed by that agency to participate with the chief inspector or a deputy inspector in a joint inspection of the boiler not later than the 20th day after the date on which the executive director [~~commissioner~~] notifies the inspection agency. An additional charge may not be made for the joint inspection.

SECTION 29.011. Sections 755.026(a), (c), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) With the approval of the executive director [~~commissioner~~] and the inspection agency that has jurisdiction for the power boiler, the interval between internal inspections may be extended to a period not exceeding a total of 48 months. For other unfired steam boilers or steam collection or liberation drums of process steam generators, the inspection interval may be extended to the next scheduled downtime of the boiler, but not exceeding a total of 84 months.

(c) The executive director [~~commissioner~~] and the inspection agency may grant an additional extension for a period not exceeding 120 days to the inspection interval covered by the boiler's certificate of operation on receipt of a request for extension stating that an emergency exists. Before the extension may be granted, the inspection agency must make an external inspection of the boiler, and the conditions imposed under Subsection (b) must be met.

(d) If an extended period between internal inspections is

approved by the executive director [~~commissioner~~] and the inspection agency, the executive director [~~commissioner~~] shall issue a new certificate of operation for the extended period of operation.

(e) If the interval between internal inspections of a gas fired boiler is extended under Subsection (a), the executive director [~~commissioner~~] and inspection agency shall require that an inspection of the gas regulator or pressure reducing valve that services the boiler be performed as part of the next regularly scheduled external certificate inspection of the boiler to verify proper venting of gas to a safe point of discharge.

SECTION 29.012. Sections 755.027(a) and (c), Health and Safety Code, are amended to read as follows:

(a) Not later than the 30th day after the date on which a certificate inspection is performed by an authorized inspector, the inspection agency employing the authorized inspector shall file a report with the executive director [~~commissioner~~] in the manner specified by the executive director [~~department~~].

(c) An inspection agency shall notify the executive director [~~commissioner~~] in writing of the cancellation or expiration of any insurance policy issued by that agency to cover a boiler located in this state, and shall include in the notice the reason for the cancellation or expiration. The notice must state the date the policy was issued and the date on which the cancellation or expiration takes effect.

SECTION 29.013. Section 755.028, Health and Safety Code, is amended to read as follows:

Sec. 755.028. SPECIAL INSPECTIONS. The executive director [~~commissioner~~] may provide a special inspection service to the owners, operators, and manufacturers of boilers. The service may include surveys required for certification to construct, assemble, or repair boilers or pressure vessels.

SECTION 29.014. Section 755.029(a), Health and Safety Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue to the owner or operator of a boiler a certificate of operation for the boiler if after a certificate inspection:

(1) the boiler is found to be in a safe condition for operation; and

(2) the owner or operator has paid the fees assessed under Section 755.030.

SECTION 29.015. Section 755.042, Health and Safety Code, is amended to read as follows:

Sec. 755.042. PROSECUTION; INJUNCTION. (a) A prosecution may not be maintained if the issuance or renewal of a certificate of operation has been requested for a boiler but has not been acted on. However, the executive director [~~commissioner~~] may petition a district court for an injunction to restrain the operation of the boiler until the condition restraining its use is corrected and a certificate of operation is issued if the executive director [~~commissioner~~] determines that the operation of the boiler without a certificate of operation constitutes a serious menace to the life and safety of the persons in or about the premises. The attorney general or the district or county attorney may bring the suit, and

venue is in the county in which the boiler is located or in Travis County. It is not necessary for the prosecutor to verify the pleadings or for the state to execute a bond.

(b) The executive director's [~~commissioner's~~] affidavit that a certificate of operation or an application for a certificate does not exist for a boiler, and the affidavit of the chief inspector or a deputy inspector that the operation of the boiler constitutes a menace to the life and safety of persons in or about the premises, are sufficient proof to warrant the immediate issuance of a temporary restraining order.

SECTION 29.016. Section 91.003(a), Labor Code, is amended to read as follows:

(a) Each state agency that in performing duties under other law affects the regulation of staff leasing services shall cooperate with the department[~~, the commissioner,~~] and other state agencies as necessary to implement and enforce this chapter.

SECTION 29.017. Section 91.015(c), Labor Code, is amended to read as follows:

(c) Before denying a license application, the department shall provide written notice to an applicant specifying the reasons for the denial. The department shall provide the applicant at least 30 days after the date of the notice to address the reasons for the denial. For good cause and on a showing of a good faith effort to remedy the reasons for the denial, the executive director [~~commissioner~~] may grant an additional 30 days to remedy the reasons for denial.

SECTION 29.018. Section 91.048, Labor Code, is amended to

read as follows:

Sec. 91.048. REQUIRED INFORMATION. Each license holder shall:

(1) maintain adequate books and records regarding the license holder's duties and responsibilities;

(2) maintain and make available at all times to the executive director [~~commissioner~~] the following information, which shall be treated as proprietary and confidential and is exempt from disclosure to persons other than other governmental agencies having a reasonable, legitimate purpose for obtaining the information:

(A) the correct name, address, and telephone number of each client company;

(B) each client company contract; and

(C) a listing by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget, of each client company;

(3) notify the department of any addition or deletion of a controlling person as listed on the license application or renewal form by providing the name of the person not later than the 45th day after the date on which the person is added or deleted as a controlling person; and

(4) provide a biographical history to the department in connection with the addition of a new controlling person.

SECTION 29.019. Section 91.062(a), Labor Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] may notify the

attorney general of a violation of this chapter. The attorney general may apply to a district court in Travis County for permission to file for quo warranto relief, injunctive relief, or both.

SECTION 29.020. Section 92.014(a), Labor Code, is amended to read as follows:

(a) The department shall issue a temporary common worker employer license to a person who meets the application requirements established by the executive director [~~commissioner~~] and pays the application and registration fees set by the commission.

SECTION 29.021. Section 92.031(a), Labor Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally violates:

(1) this chapter;

(2) a rule adopted under this chapter; or

(3) an administrative order adopted [~~by the commissioner~~] under this chapter.

SECTION 29.022. Sections 1152.154(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for registration must file an application with the department on a printed form prescribed by the executive director [~~commissioner~~].

(c) The department shall refund the registration fee if the executive director [~~commissioner~~] does not approve the application.

SECTION 29.023. Section 1152.156, Occupations Code, is

amended to read as follows:

Sec. 1152.156. ELIGIBILITY TO REGISTER AS PROPERTY TAX CONSULTANT. (a) In addition to satisfying the requirements of Section 1152.155, an applicant for registration as a property tax consultant must:

(1) complete at least 15 classroom hours of educational courses approved by the executive director [~~commissioner~~], including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services; or

(2) if the person is eligible for registration under Section 1152.155(b), submit to the commission evidence that the applicant has completed at least four classroom hours of educational programs or courses on the laws and legal issues in this state related to property tax consulting services.

(b) The executive director [~~commissioner~~] may give appropriate credit to an initial applicant for:

(1) educational courses on principles of law related to property tax consulting services completed by the applicant not more than two years before the date of application; and

(2) educational programs or courses completed by the applicant on:

(A) property taxation;

(B) the property tax system;

(C) property tax administration;

(D) ethical standards; or

(E) general principles of appraisal, accounting,

or law as they relate to property tax consulting services.

SECTION 29.024. Section 1152.159, Occupations Code, is amended to read as follows:

Sec. 1152.159. CREDITS FOR SENIOR PROPERTY TAX CONSULTANT APPLICANTS. (a) The executive director [~~commissioner~~] shall grant credit to an applicant for registration as a senior property tax consultant as follows:

(1) two credits for each year the applicant completed at an institution of higher education that meets program and accreditation standards comparable to those for public institutions of higher education as determined by the Texas Higher Education Coordinating Board, not to exceed six credits;

(2) four credits to an applicant who holds a bachelor's degree or equivalent from an institution of higher education described by Subdivision (1); and

(3) one credit for each year in excess of five years that the applicant's primary occupation involved the performance or supervision of property tax consulting services or property appraisal, assessment, or taxation, not to exceed 10 credits.

(b) The executive director [~~commissioner~~] may grant additional credits to an applicant for registration as a senior property tax consultant for:

(1) successful completion of educational programs or courses on:

(A) property taxation;

(B) the property tax system;

(C) property tax administration;

(D) ethical standards; or

(E) general principles of appraisal, accounting, and law as they relate to property tax consulting services;

(2) completion of other educational programs or courses; or

(3) advanced or postgraduate educational achievement, occupational experience, professional licenses, or professional designations obtained from recognized associations, institutes, or organizations.

(c) The executive director [~~commissioner~~] may assign not less than one credit or more than five credits to a program or course described by Subsection (b)(1). In determining the amount of credit for the program or course, the executive director [~~commissioner~~] shall consider:

(1) the nature of the program or course;

(2) the number of actual instructional hours in the program or course;

(3) whether an examination is required for successful completion of the program or course; and

(4) other factors the executive director [~~commissioner~~] determines appropriate.

SECTION 29.025. Section 1152.162, Occupations Code, is amended to read as follows:

Sec. 1152.162. ISSUANCE OF CERTIFICATE OF REGISTRATION. (a) The executive director [~~commissioner~~] shall act on an initial application for registration filed under Section 1152.154 not later than the 31st day after the date the department receives the

application.

(b) The executive director [~~commissioner~~] shall issue to an applicant who qualifies for registration the appropriate certificate of registration.

SECTION 29.026. Section 1202.055, Occupations Code, is amended to read as follows:

Sec. 1202.055. SECRETARY; PERSONNEL. The executive director [~~commissioner~~] shall:

(1) act as secretary of the council; and

(2) provide personnel from the department necessary to perform staff functions for the council.

SECTION 29.027. Sections 1202.105(b) and (c), Occupations Code, are amended to read as follows:

(b) The executive director [~~commissioner~~] shall recommend qualified third-party inspectors and design review agencies to the council.

(c) The executive director [~~commissioner~~] shall publish a list of all approved inspectors and design review agencies.

SECTION 29.028. Section 1302.002(12), Occupations Code, is amended to conform to Section 1, Chapter 790, Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

(12) "Mechanical integrity" means the condition of a product, a system, or equipment installed in accordance with its intended purpose and according to:

(A) standards at least as strict as the standards provided by:

(i) the Uniform Mechanical Code [~~published~~

~~jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, or their successor organizations~~]; and [~~or~~]

(ii) the International [~~Standard~~] Mechanical Code [~~published by the Southern Building Code Congress International, Inc., or its successor organization~~];

(B) all other applicable codes; and

(C) the manufacturer's specifications.

SECTION 29.029. Section 1302.102, Occupations Code, is amended to read as follows:

Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive director [~~commissioner~~] shall set insurance requirements for a license holder under this chapter.

(b) The executive director [~~commissioner~~] may waive the insurance requirements for a license holder who does not engage in air conditioning and refrigeration contracting for the public.

SECTION 29.030. Section 1302.151, Occupations Code, is amended to read as follows:

Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The executive director [~~commissioner~~] shall prepare information of consumer interest describing:

(1) the functions performed by the executive director [~~commissioner~~] under this chapter; and

(2) the rights of a consumer affected by this chapter.

(b) The information must describe the procedure by which a consumer complaint is filed with and resolved by the executive director [~~commissioner~~].

(c) The executive director [~~commissioner~~] shall make the information available to the public.

SECTION 29.031. Section 1302.203, Occupations Code, is amended to read as follows:

Sec. 1302.203. EX OFFICIO MEMBERS. The executive director [~~commissioner~~] and the chief administrator of this chapter serve as ex officio, nonvoting members of the advisory board.

SECTION 29.032. Section 1302.253(a), Occupations Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a Class A or Class B air conditioning and refrigeration contractor license.

SECTION 29.033. Sections 1302.256(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for a license must submit a verified application on a form prescribed by the executive director [~~commissioner~~].

(c) The application must be accompanied by:

(1) a statement containing evidence satisfactory to the executive director [~~commissioner~~] of the applicant's practical experience required by Section 1302.255(a)(2); and

(2) the examination fee.

SECTION 29.034. Section 1302.257, Occupations Code, is amended to read as follows:

Sec. 1302.257. EXAMINATIONS. (a) The executive director [~~commissioner~~] shall prescribe:

(1) a separate examination for each class of license;

and

(2) within each class of license, a separate examination for:

(A) an environmental air conditioning endorsement; and

(B) a commercial refrigeration and process cooling or heating endorsement.

(b) The executive director [~~commissioner~~] shall prescribe the method and content of an examination administered under this chapter and shall set compliance requirements for the examination. To obtain an endorsement, an applicant must pass the examination for the endorsement.

(c) The examination shall be offered on a monthly basis or more frequently as determined by the executive director [~~commissioner~~].

(d) The examination shall be offered at locations within the state as determined by the executive director [~~commissioner~~]. The examination may be offered by computer at locations within the state as determined by the executive director [~~commissioner~~].

SECTION 29.035. Section 1302.260(a), Occupations Code, is amended to read as follows:

(a) On payment of the license fee, the executive director [~~commissioner~~] shall issue an air conditioning and refrigeration contractor license to an applicant who:

(1) meets the requirements of this subchapter;

(2) provides evidence of insurance coverage required by the executive director [~~commissioner~~] in accordance with this

chapter; and

(3) passes the applicable examination.

SECTION 29.036. Section 1302.303(b), Occupations Code, is amended to read as follows:

(b) The municipality shall report a violation of the ordinance to the executive director [~~commissioner~~] not later than the 10th day after the date the municipality acts to enforce the ordinance.

SECTION 29.037. Section 1302.451, Occupations Code, is amended to read as follows:

Sec. 1302.451. EMERGENCY AND CEASE AND DESIST ORDERS. (a) The executive director [~~commissioner~~] may issue an emergency order as necessary to enforce this chapter if the executive director [~~commissioner~~] determines that an emergency exists requiring immediate action to protect the public health and safety.

(b) The executive director [~~commissioner~~] may issue the emergency order without notice and hearing or with any notice and hearing the executive director [~~commissioner~~] considers practicable under the circumstances. The executive director [~~commissioner~~] shall set the time and place for a hearing to affirm, modify, or set aside an emergency order that was issued without a hearing.

(c) The executive director [~~commissioner~~] may issue a cease and desist order.

SECTION 29.038. Section 1304.007, Occupations Code, is amended to read as follows:

Sec. 1304.007. GENERAL INVESTIGATIVE POWER OF EXECUTIVE

DIRECTOR [~~COMMISSIONER~~]. (a) The executive director [~~commissioner~~] may investigate a provider, administrator, or other person as necessary to enforce this chapter and protect service contract holders in this state.

(b) On request of the executive director [~~commissioner~~], a provider shall make the records required by Section 1304.155 available to the executive director [~~commissioner~~] as necessary to enable the executive director [~~commissioner~~] to reasonably determine compliance with this chapter.

SECTION 29.039. Section 1304.102, Occupations Code, is amended to read as follows:

Sec. 1304.102. APPLICATION FOR REGISTRATION. (a) An applicant for registration must submit an application to the executive director [~~commissioner~~].

(b) The application must:

(1) be in the form prescribed by the executive director [~~commissioner~~]; and

(2) include evidence satisfactory to the executive director [~~commissioner~~] of compliance with the applicable financial security requirements prescribed by Section 1304.151.

SECTION 29.040. Section 1304.104, Occupations Code, is amended to read as follows:

Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE CONTRACTS SOLD. Information concerning the number of service contracts sold by a provider that is submitted under Section 1304.103:

(1) is a trade secret to which Section 552.110,

Government Code, applies; and

(2) may be used only by the executive director [~~commissioner~~] and the department in developing the tiered fee schedule under Section 1304.103.

SECTION 29.041. Section 1304.152(b), Occupations Code, is amended to read as follows:

(b) The insurer may not cancel the policy until the insurer delivers to the provider a written notice of cancellation that complies with the notice requirements prescribed by Articles 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an insurance policy under those articles. The provider shall forward a copy of the cancellation notice to the executive director [~~commissioner~~] not later than the 15th business day after the date the notice is delivered to the provider. Cancellation of the policy does not reduce the insurer's responsibility for a service contract issued by the provider and insured under the policy before the date of the cancellation.

SECTION 29.042. Sections 1304.155(b) and (d), Occupations Code, are amended to read as follows:

(b) The records required by this section may be maintained in an electronic medium or through other recordkeeping technology. If a record is not in a hard copy, the provider must be able to reformat the record into a legible hard copy at the request of the executive director [~~commissioner~~].

(d) A provider that discontinues business in this state shall retain its records until the provider furnishes the executive director [~~commissioner~~] with proof satisfactory to the executive

director [~~commissioner~~] that the provider has discharged all obligations to service contract holders in this state.

SECTION 29.043. Section 1304.202, Occupations Code, is amended to read as follows:

Sec. 1304.202. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The executive director [~~commissioner~~] may institute an action under Section 51.352 for injunctive relief to restrain a violation or a threatened violation of this chapter or an order issued or rule adopted under this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the executive director [~~commissioner~~] may institute an action for a civil penalty as provided by Section 51.352. The amount of a civil penalty assessed under this section may not exceed:

(1) $2,500 for each violation; or

(2) $50,000 in the aggregate for all violations of a similar nature.

SECTION 29.044. Section 1802.002, Occupations Code, is amended to read as follows:

Sec. 1802.002. APPLICABILITY. This chapter does not apply to:

(1) a sale conducted by order of a United States court under Title 11, United States Code;

(2) a sale conducted by an employee of the United States, this state, or a political subdivision of this state in the course and scope of employment;

(3) a sale conducted by a charitable or nonprofit

organization, if the auctioneer receives no compensation;

(4) a sale conducted by an individual of the individual's property if the individual is not engaged in the business of selling property as an auctioneer on a recurring basis;

(5) a foreclosure sale of real property personally conducted by a trustee under a deed of trust;

(6) a foreclosure sale of personal property personally conducted by:

(A) a person who holds a security interest in the property, including a mortgage; or

(B) an employee or agent of a person described by Paragraph (A) acting in the course and scope of employment, if:

(i) the employee or agent is not otherwise engaged in the auction business; and

(ii) all property for sale in the auction is subject to a security agreement;

(7) a sale conducted by sealed bid;

(8) an auction conducted only for student training purposes as part of a course of study approved by the executive director [~~commissioner~~] for auctioneers;

(9) an auction conducted by a posted stockyard or market agency as defined by the federal Packers and Stockyards Act (7 U.S.C. Section 181 et seq.), as amended;

(10) an auction of livestock conducted by a nonprofit livestock trade association chartered in this state, if the auction involves only the sale of livestock owned by members of the trade association; or

(11) an auction conducted by a charitable or nonprofit organization chartered in this state, if the auction:

(A) is part of a fair that is organized under state, county, or municipal authority; and

(B) involves only the sale of property owned by the organization's members.

SECTION 29.045. Section 1802.051(a), Occupations Code, is amended to read as follows:

(a) A person may not act as an auctioneer or associate auctioneer in an auction held in this state unless the person is an individual who holds a license issued by the executive director [~~commissioner~~] under this chapter.

SECTION 29.046. Section 1802.054, Occupations Code, is amended to read as follows:

Sec. 1802.054. APPLICATION FOR LICENSE. An applicant for a license must apply to the executive director [~~commissioner~~] on a form provided by the executive director [~~commissioner~~] that establishes the applicant's eligibility for the license. The application must be accompanied by:

(1) the required bond;

(2) the required license fee; and

(3) either:

(A) the permit number of a sales tax permit issued to the applicant by the comptroller under Subchapter F, Chapter 151, Tax Code; or

(B) proof of exemption from the tax permit requirement under Chapter 151, Tax Code.

SECTION 29.047. Sections 1802.055(a) and (b), Occupations Code, are amended to read as follows:

(a) An individual who establishes that the individual is eligible for an auctioneer's license may apply to the executive director [~~commissioner~~] to take the license examination. The application must be accompanied by the examination fee.

(b) On receipt of an examination application and fee, the executive director [~~commissioner~~] shall furnish the applicant with:

(1) study materials and references on which the examination will be based; and

(2) a schedule specifying the dates and places the examination will be offered.

SECTION 29.048. Sections 1802.056(b) and (c), Occupations Code, are amended to read as follows:

(b) The license examination shall be offered at least four times each year at locations designated by the executive director [~~commissioner~~].

(c) The executive director [~~commissioner~~] shall prepare:

(1) examinations for an auctioneer's license; and

(2) study and reference materials on which the examinations are based.

SECTION 29.049. Section 1802.152(a), Occupations Code, is amended to read as follows:

(a) The department is the manager of the fund and shall:

(1) administer the fund without appropriation;

(2) maintain books and records as required by the

executive director [~~commissioner~~];

(3) appear at hearings or judicial proceedings; and

(4) invest and reinvest the fund's assets as instructed by the executive director [~~commissioner~~].

SECTION 29.050. Section 1802.155(b), Occupations Code, is amended to read as follows:

(b) If the fund contains insufficient assets to pay the consumer:

(1) the department shall record the time and date an order for payment to a consumer was received; and

(2) the executive director [~~commissioner~~] shall pay consumers for whom an order is recorded under Subdivision (1) as funds become available in the order of the recorded time and date of the order.

SECTION 29.051. Section 1802.156, Occupations Code, is amended to read as follows:

Sec. 1802.156. EDUCATION EXPENDITURES PERMITTED. The executive director [~~commissioner~~] may use amounts in excess of $250,000 in the fund to:

(1) advance education and research in the auctioneering profession for the benefit of license holders and to improve and increase the efficiency of the industry;

(2) underwrite educational seminars, training centers, and other educational projects for the use and benefit of license holders;

(3) sponsor, contract, and underwrite other educational and research projects that advance the auctioneering

profession in this state; and

(4) cooperate with associations of auctioneers and other groups for the education and advancement of the auctioneering profession in this state.

SECTION 29.052. Sections 1802.205(a) and (b), Occupations Code, are amended to read as follows:

(a) If the department's determination under Section 1802.202 is not disputed by the auctioneer or the aggrieved party, the executive director [~~commissioner~~] shall pay the claim from the fund, subject to Section 1802.206.

(b) If a hearing is held on the department's determination, the executive director [~~commissioner~~] shall pay to the aggrieved party the amount of actual damages determined by the executive director [~~commissioner~~].

SECTION 29.053. Section 1802.206(a), Occupations Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] may not pay a single aggrieved party more than $10,000.

SECTION 29.054. Section 1802.208, Occupations Code, is amended to read as follows:

Sec. 1802.208. SUBROGATION. If the executive director [~~commissioner~~] pays a claim against an auctioneer, the department is subrogated to all rights of the aggrieved party against the auctioneer to the extent of the amount paid to the aggrieved party.

SECTION 29.055. Section 1901.051(b), Occupations Code, is amended to read as follows:

(b) The executive director [~~commissioner~~] shall issue

licenses to applicants who qualify.

SECTION 29.056. Section 1901.151, Occupations Code, is amended to read as follows:

Sec. 1901.151. LICENSE REQUIRED. A person may not act or offer to act as a driller unless the person holds a license issued by the executive director [~~commissioner~~] under this chapter and rules adopted under this chapter.

SECTION 29.057. Section 1901.402, Occupations Code, is amended to read as follows:

Sec. 1901.402. INJUNCTION AND OTHER ENFORCEMENT PROVISIONS. (a) The executive director [~~commissioner~~] may bring an action to enjoin a person from violating this chapter.

(b) The executive director [~~commissioner~~] may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter.

SECTION 29.058. Section 1901.403, Occupations Code, is amended to read as follows:

Sec. 1901.403. VENUE. The executive director [~~commissioner~~] may bring an action in:

(1) Travis County; or

(2) the county in which:

(A) the offending activity occurred; or

(B) the person engaging in the activity resides.

SECTION 29.059. Section 1901.404(b), Occupations Code, is amended to read as follows:

(b) At the request of the executive director

[~~commissioner~~], the attorney general shall bring an action in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty, as authorized by this subchapter.

SECTION 29.060. Section 1902.151, Occupations Code, is amended to read as follows:

Sec. 1902.151. LICENSE REQUIRED. A person may not act or offer to act as an installer unless the person holds a license issued by the executive director [~~commissioner~~] under rules adopted under this chapter.

SECTION 29.061. Section 1902.402, Occupations Code, is amended to read as follows:

Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT PROVISIONS. (a) The executive director [~~commissioner~~] may bring an action to enjoin a person from violating this chapter.

(b) The executive director [~~commissioner~~] may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter.

SECTION 29.062. Section 1902.403, Occupations Code, is amended to read as follows:

Sec. 1902.403. VENUE. The executive director [~~commissioner~~] may bring an action in:

(1) Travis County; or

(2) the county in which:

(A) the offending activity occurred; or

(B) the person engaging in the activity resides.

SECTION 29.063. Section 1902.404(b), Occupations Code, is amended to read as follows:

(b) At the request of the executive director [~~commissioner~~], the attorney general shall bring an action in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty, as authorized by this subchapter.

SECTION 29.064. Section 2052.053, Occupations Code, is amended to read as follows:

Sec. 2052.053. INVESTIGATIVE AUTHORITY. (a) The executive director [~~commissioner~~] shall investigate allegations of activity that may violate this chapter.

(b) The executive director [~~commissioner~~] may enter, at a reasonable time, a place of business or an establishment in which activity alleged to violate this chapter may occur. The executive director [~~commissioner~~] is not required to give advance notice before entering.

SECTION 29.065. Section 2052.102, Occupations Code, is amended to read as follows:

Sec. 2052.102. BOXING PROMOTER LICENSE APPLICATION REQUIREMENTS. (a) An applicant for a boxing promoter's license under this chapter must apply on a form furnished by the executive director [~~commissioner~~].

(b) An application must be accompanied by:

(1) a license fee in an amount set by the commission; and

(2) a surety bond:

(A) subject to approval by the executive director [~~commissioner~~]; and

(B) conditioned on the applicant's payment of the tax imposed under Section 2052.151.

(c) The executive director [~~commissioner~~] shall establish the amount of the surety bond required under Subsection (b). The bond amount may not be less than $300.

SECTION 29.066. Section 2052.108(a), Occupations Code, is amended to read as follows:

(a) An application for a license under Section 2052.107 must be made on a form furnished by the executive director [~~commissioner~~].

SECTION 29.067. Section 2052.110, Occupations Code, is amended to read as follows:

Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. The licensing and bonding requirements of this subchapter do not apply to:

(1) a boxing event in which the participants do not receive a money remuneration, purse, or prize for their performances or services if the event is promoted, conducted, or maintained by:

(A) an educational institution;

(B) a law enforcement organization;

(C) a Texas National Guard Unit; or

(D) an amateur athletic organization recognized by the executive director [~~commissioner~~];

(2) a nonprofit amateur athletic association

chartered under the law of this state, including a membership club affiliated with the association located within this state and recognized by the executive director [~~commissioner~~];

(3) an event conducted by a college, school, or university that is part of the institution's athletic program in which only students of different educational institutions participate; or

(4) an event in which only members of a troop, battery, company, or unit of the Texas National Guard or a law enforcement agency participate.

SECTION 29.068. Section 2052.111, Occupations Code, is amended to read as follows:

Sec. 2052.111. DENIAL OF APPLICATION. The executive director [~~commissioner~~] may deny an application for a license if:

(1) the applicant does not meet the qualifications for the license; or

(2) after conducting an investigation and a hearing, the executive director [~~commissioner~~] determines that the applicant has violated this chapter or a rule adopted under this chapter.

SECTION 29.069. Section 2052.203(b), Occupations Code, is amended to read as follows:

(b) The elimination tournament boxing promoter of a local, regional, or championship elimination tournament is not required to require that each elimination tournament contestant wear headgear approved by the department if the promoter under department rules notifies the executive director [~~commissioner~~] of the decision not

to use the approved headgear.

SECTION 29.070. Sections 2052.252(b) and (e), Occupations Code, are amended to read as follows:

(b) The event may take place only if the executive director [~~commissioner~~] approves the event not later than seven days before the date the event begins.

(e) The event is subject to the supervision of the executive director [~~commissioner~~].

SECTION 29.071. Section 2052.302, Occupations Code, is amended to read as follows:

Sec. 2052.302. FORFEITURE OF PURSE. The executive director [~~commissioner~~] may order a boxer or manager to forfeit to this state a purse in an amount of not more than $1,000 for violating this chapter or a rule adopted under this chapter.

SECTION 29.072. Sections 2052.304(a) and (b), Occupations Code, are amended to read as follows:

(a) A person may seek review of a decision or an order of the executive director [~~commissioner~~] under this chapter by filing a petition for review in a district court in Travis County not later than the 30th day after the date on which the decision or order of the executive director [~~commissioner~~] is final if the person is:

(1) a party to an administrative hearing in which the decision or order is issued; and

(2) aggrieved by the decision or order.

(b) The filing of a petition for review under Subsection (a) does not stay the effect of the decision or order of the executive director [~~commissioner~~] that is the subject of the petition. The

executive director [~~commissioner~~] or the district court in which the petition for review is filed may order a stay on appropriate terms.

SECTION 29.073. Section 2052.305, Occupations Code, is amended to read as follows:

Sec. 2052.305. SERVICE OF PROCESS. A petition for review filed under Section 2052.304 must be served on:

(1) the executive director [~~commissioner~~]; and

(2) all parties of record to a hearing before the executive director [~~commissioner~~] that relates to the matter for which the petition for review is filed.

SECTION 29.074. Section 2052.306(a), Occupations Code, is amended to read as follows:

(a) On receipt of a petition for review served under Section 2052.305, the executive director [~~commissioner~~], not later than the date on which the answer to the petition must be filed or the date on which the record is made available to the executive director [~~commissioner~~], whichever date is later, shall certify to the district court in which the petition is filed the record of the proceedings to which the petition relates.

SECTION 29.075. Section 2052.307, Occupations Code, is amended to read as follows:

Sec. 2052.307. JUDICIAL REVIEW. (a) A district court reviewing a decision or an order of the executive director [~~commissioner~~] under this subchapter shall try the action without a jury in the same manner as a civil action, except that evidence is not admissible unless the evidence was presented at the hearing or

noticed in the record of the hearing before the executive director [~~commissioner~~]. The petitioner has the burden of proof in the action.

(b) The court may:

(1) affirm the decision or order of the executive director [~~commissioner~~]; or

(2) remand the matter to the executive director [~~commissioner~~] for further proceedings.

SECTION 29.076. Section 2052.308, Occupations Code, is amended to read as follows:

Sec. 2052.308. APPEAL. (a) The petitioner or executive director [~~commissioner~~] may appeal a final judgment of a court conducting a review under this subchapter in the same manner as a civil action.

(b) The executive director [~~commissioner~~] is not required to file an appeal bond.

SECTION 29.077. Section 2151.101(a), Occupations Code, is amended to read as follows:

(a) A person may not operate an amusement ride unless the person:

(1) has had the amusement ride inspected at least once a year by an insurer or a person with whom the insurer has contracted;

(2) obtains a written certificate from the insurer or person with whom the insurer has contracted stating that the amusement ride:

(A) has been inspected;

(B) meets the standards for insurance coverage; and

(C) is covered by the insurance required by Subdivision (3);

(3) has an insurance policy currently in effect written by an insurance company authorized to do business in this state or by a surplus lines insurer, as defined by Chapter 981 [~~Article 1.14-2~~], Insurance Code, or has an independently procured policy subject to Chapter 101 [~~Article 1.14-1~~], Insurance Code, insuring the owner or operator against liability for injury to persons arising out of the use of the amusement ride in an amount of not less than:

(A) $100,000 per occurrence with a $300,000 annual aggregate for Class A amusement rides; and

(B) $1,000,000 per occurrence for Class B amusement rides;

(4) files with the executive director [~~commissioner~~], as required by this chapter, the inspection certificate and the insurance policy or a photocopy of the certificate or policy authorized by the executive director [~~commissioner~~]; and

(5) files with each sponsor, lessor, landowner, or other person responsible for the amusement ride being offered for use by the public a photocopy of the inspection certificate and the insurance policy required by this subsection.

SECTION 29.078. Section 2501.053(a), Occupations Code, is amended to read as follows:

(a) Not later than the 30th day before the date a personnel

service begins operating in this state, the owner of the service must file notice with the executive director [~~commissioner~~].

SECTION 29.079. Section 2501.055(a), Occupations Code, is amended to read as follows:

(a) On receipt of a notice filed under Section 2501.053, the executive director [~~commissioner~~] shall issue to the owner a certificate of authority to do business as a personnel service not later than the 15th day after the date the notice is filed if the owner:

(1) pays the filing fee required for the certificate; and

(2) complies with the requirements of Section 2501.054.

SECTION 29.080. Section 2501.057, Occupations Code, is amended to read as follows:

Sec. 2501.057. RENEWAL OF CERTIFICATE. The executive director [~~commissioner~~] shall issue a renewal of a certificate of authority on the receipt of:

(1) a renewal notice from the owner that contains the information required by Section 2501.053;

(2) a renewal fee; and

(3) security that complies with Section 2501.054.

SECTION 29.081. The heading to Subchapter D, Chapter 2501, Occupations Code, is amended to read as follows:

SUBCHAPTER D. ENFORCEMENT [~~BY COMMISSIONER~~]

SECTION 29.082. Section 2501.151, Occupations Code, is amended to read as follows:

Sec. 2501.151. ENFORCEMENT. (a) The executive director [~~commissioner~~] shall enforce Section 2501.102 and may investigate a personnel service as necessary to enforce that section.

(b) The attorney general shall assist the executive director [~~commissioner~~] on request.

SECTION 29.083. Section 2501.253(a), Occupations Code, is amended to read as follows:

(a) In addition to the amount awarded to a complainant under Section 2501.154(b), the executive director [~~commissioner~~] may impose on the personnel service an administrative penalty equal to two times the amount awarded under that subsection. A penalty collected under this section shall be deposited in the state treasury.

SECTION 29.084. Sections 2502.052(a) and (b), Occupations Code, are amended to read as follows:

(a) To obtain a certificate of authority, an owner must:

(1) file with the executive director [~~commissioner~~] a sworn application accompanied by the required application fee; and

(2) file with the department security that complies with Section 2502.053.

(b) The application must be in the form prescribed by the executive director [~~commissioner~~] and include:

(1) the address of the principal location of the career counseling service;

(2) the assumed name, if any, under which the career counseling service will operate;

(3) the name and address of each owner; and

(4) a statement that the owner has read and is familiar with this chapter.

SECTION 29.085. Section 2502.053(a), Occupations Code, is amended to read as follows:

(a) Before the executive director [~~commissioner~~] may issue a certificate of authority to an owner, the owner must file with the department a bond in the amount of $10,000 that is:

(1) executed by a surety company authorized to do business in this state;

(2) payable to the state; and

(3) conditioned on the faithful performance of the owner's obligations under this chapter.

SECTION 29.086. Sections 2502.054(a) and (b), Occupations Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a certificate of authority to do business as a career counseling service to an applicant who meets the requirements of this subchapter.

(b) The executive director [~~commissioner~~] shall process a certificate application not later than the 15th day after the date the application is filed.

SECTION 29.087. Section 2502.251, Occupations Code, is amended to read as follows:

Sec. 2502.251. ENFORCEMENT. (a) The executive director [~~commissioner~~] shall enforce this chapter and may investigate a career counseling service as necessary.

(b) The attorney general shall assist the executive

director [~~commissioner~~] on request.

SECTION 29.088. Section 2502.301, Occupations Code, is amended to read as follows:

Sec. 2502.301. ADMINISTRATIVE PENALTY. In addition to the amount awarded to a complainant under Section 2502.254(b), the executive director [~~commissioner~~] may impose on the career counseling service an administrative penalty equal to two times the amount awarded under that subsection. A penalty collected under this section shall be deposited in the state treasury.

SECTION 29.089. Section 7(a), Article 9035, Revised Statutes, is amended to read as follows:

(a) To ensure the adequate performance of a warrantor's obligations to a consumer, each warrantor shall comply with financial security requirements by:

(1) insuring its vehicle protection products under a reimbursement insurance policy issued by an insurer authorized to engage in the business of insurance in this state or under a surplus lines insurance policy issued by an insurer eligible to place coverage in this state as regulated under Chapter 981 [~~Article 1.14-2~~], Insurance Code; or

(2) providing any other form of comparable financial security approved by the executive director [~~commissioner~~].

SECTION 29.090. Section 1.14, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.14. PERSONNEL. The executive director [~~commissioner~~] may, as provided by the General Appropriations Act,

appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform duties and functions under this article.

SECTION 29.091. Section 1.41(e), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation. An application for a petition seeking an election to disapprove the issuance of a permit must be headed: "Application for Election to Disapprove a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants stating the following: "It is the hope, purpose, and intent of the applicants whose signatures appear on this application to see disapproved the issuance of a permit for weather modification, including hail suppression." An application for a petition seeking an election to approve the issuance of a permit shall be headed: "Application for Election to Approve a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear on this petition to see approved the issuance of a permit for weather modification, including hail suppression." On the return to the county clerks of petitions

signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election, the commissioners court of each county shall call and hold an election. Notice under Chapter 111, Local Government Code, of the commissioners court meeting to call and hold the election is not required. The date of the election shall be determined by the commissioners court in accordance with this section, notwithstanding Sections 41.004 and 41.0041, Election Code. The petition must be filed with the clerk of each county within 30 days immediately following the first publication of notice. The election must be held within 45 days after the date the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit. Immediately on calling the election, the clerk of each county within the target area or operational area shall notify the executive director [~~commissioner~~] of the date of the election. Except as otherwise provided in this article, elections must be held in accordance with the Election Code.

SECTION 29.092. The changes in law made by this article to Section 755.024, Health and Safety Code, regarding the terminology used to identify a commission or license issued by the Texas Department of Licensing and Regulation, do not affect the validity of a commission or license issued by the department under that section.

ARTICLE 30. GENERAL TRANSITION; EFFECTIVE DATE

SECTION 30.001. The changes in law made by this Act regarding the powers and duties of the executive director of the

Texas Department of Licensing and Regulation that are transferred to the Texas Commission of Licensing and Regulation do not affect the status of a complaint, investigation, or other proceeding. A rule or form adopted by the executive director before the effective date of this Act remains in effect as a rule or form of the department until amended or changed.

SECTION 30.002. This Act takes effect September 1, 2003.

HOUSE
COMMITTEE REPORT

1st Printing

By: Solomons, Chisum, Gallego, Dunnam H.B. No. 2062

Substitute the following for H.B. No. 2062:

By: Driver C.S.H.B. No. 2062

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Texas Department of Insurance and the Texas Commission on Environmental Quality and including certain functions transferred from the department to the Department of Public Safety.

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

ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 1.001. Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2015 [~~2003~~].

SECTION 1.002. Subchapter A, Chapter 51, Occupations Code, is amended by adding Section 51.003 to read as follows:

Sec. 51.003. APPLICABILITY. This chapter applies to each regulatory program administered by the department, including any program under which a license is issued by the department.

SECTION 1.003. Section 51.052(a), Occupations Code, is amended to read as follows:

(a) The commission consists of five [~~six~~] members appointed by the governor with the advice and consent of the senate.

SECTION 1.004. Section 51.053(b), Occupations Code, is amended to read as follows:

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

(1) is regulated by the department;

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

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

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

(5) [~~is an officer, employee, or paid consultant of a trade association in a field regulated by the department;~~

[~~(6)~~] is an employee of the department[~~; or~~

[~~(7) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission or department~~].

SECTION 1.005. Subchapter B, Chapter 51, Occupations Code, is amended by adding Section 51.0535 to read as follows:

Sec. 51.0535. CONFLICT OF INTEREST. (a) In this section,

"Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the department; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the department.

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

SECTION 1.006. Subchapter B, Chapter 51, Occupations Code, is amended by adding Section 51.054 to read as follows:

Sec. 51.054. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote,

deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the commission;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for

the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.007. Section 51.055(a), Occupations Code, is amended to read as follows:

(a) Members of the commission serve staggered six-year terms. The terms of one or two members expire on February 1 of each odd-numbered year.

SECTION 1.008. Section 51.056(a), Occupations Code, is amended to read as follows:

(a) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor [~~commission shall elect one of its members as presiding officer. The presiding officer serves in that capacity for a period of two years~~].

SECTION 1.009. Sections 51.057(a) and (c), Occupations Code, are amended to read as follows:

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

(1) does not have at the time of taking office [~~appointment~~] the qualifications required by Section 51.053 [~~for appointment to the commission~~];

(2) does not maintain during service on the commission the qualifications required by Section 51.053 [~~for appointment to the commission~~];

(3) is ineligible for membership under [~~violates a prohibition established by~~] Section 51.0535 [~~51.053~~]; [~~or~~]

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by a majority vote of the commission.

(c) If [~~a commission member or~~] the executive director has knowledge that a potential ground for removal exists, the [~~member or~~] executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.010. Section 51.105, Occupations Code, is amended to read as follows:

Sec. 51.105. DIVISION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making [~~define the respective~~] responsibilities of the commission and the management responsibilities of[~~,~~] the executive director[~~,~~] and the staff of the department.

SECTION 1.011. Subchapter C, Chapter 51, Occupations Code, is amended by adding Section 51.106 to read as follows:

Sec. 51.106. INFORMATION ON STANDARDS OF CONDUCT. The

executive director or the executive director's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 1.012. Section 51.108, Occupations Code, is amended to read as follows:

Sec. 51.108. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of [~~to assure implementation of an~~] equal employment opportunity to ensure that [~~program under which~~] all personnel decisions [~~transactions~~] are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating [~~related~~] to recruitment, evaluation, selection, [~~appointment,~~] training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law [~~a comprehensive analysis of the department workforce that meets federal and state guidelines;~~

[~~(3) procedures by which a determination can be made~~

~~of significant underuse in the department workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

[~~(4) reasonable methods to appropriately address those areas of significant underuse~~].

(c) The [~~(b) A~~] policy statement [~~prepared under Subsection (a)~~] must:

(1) [~~cover an annual period,~~] be updated [~~at least~~] annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1);[~~,~~] and

(3) be filed with the governor's office [~~governor~~].

SECTION 1.013. Subchapter C, Chapter 51, Occupations Code, is amended by adding Section 51.109 to read as follows:

Sec. 51.109. STATE EMPLOYEE INCENTIVE PROGRAM. The executive director or the executive director's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 1.014. Sections 51.203 and 51.204, Occupations Code, are amended to read as follows:

Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY DEPARTMENT [~~ADOPTED BY EXECUTIVE DIRECTOR~~]. The commission [~~executive director~~] shall adopt rules as necessary to implement each law establishing a program regulated by the department.

Sec. 51.204. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission [~~executive director~~] may not adopt

rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) The commission [~~executive director~~] may not include in rules to prohibit false, misleading, or deceptive practices by a license holder a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the license holder's personal appearance or the use of the license holder's voice in an advertisement;

(3) relates to the size or duration of an advertisement; or

(4) restricts the use of a trade name in advertising.

SECTION 1.015. Subchapter D, Chapter 51, Occupations Code, is amended by adding Sections 51.207 and 51.208 to read as follows:

Sec. 51.207. USE OF TECHNOLOGY. The commission shall develop and implement a policy requiring the executive director and department employees to research and propose appropriate technological solutions to improve the department's ability to perform its functions. The technological solutions must:

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

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

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

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

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

Sec. 51.208. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

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

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

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

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

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

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

SECTION 1.016. Section 51.252, Occupations Code, is amended to read as follows:

Sec. 51.252. COMPLAINTS. (a) The executive director shall

establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department shall provide to the person filing the complaint and to each person who is a subject of the complaint information about the department's policies and procedures relating to complaint investigation and resolution.

(b) The department shall maintain a [~~keep an information~~] file on [~~about~~] each written complaint filed with the department [~~that the commission or executive director has authority to resolve~~]. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(c) The [~~If a written complaint is filed that the commission or executive director has authority to resolve, the~~] department, at least quarterly and until final disposition of the complaint, shall notify the person filing [~~parties to~~] the complaint and each person who is a subject of the complaint of the status of the investigation

[~~complaint~~] unless the notice would jeopardize an undercover investigation.

(d) The commission shall adopt a procedure for documenting complaints to the department from the time of the submission of the initial complaint to the final disposition of the complaint. The commission shall publish the procedure in the Texas Register.

SECTION 1.017. Section 51.302, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall by rule or by procedure published in the Texas Register establish a written enforcement plan that provides notice to license holders of the specific ranges of penalties that apply to specific alleged violations and the criteria by which the department determines the amount of a proposed administrative penalty.

SECTION 1.018. Section 51.353, Occupations Code, is amended to read as follows:

Sec. 51.353. ADMINISTRATIVE SANCTIONS. (a) The commission shall revoke, suspend, or refuse to renew a license or shall reprimand a license holder for a violation of this chapter, [~~executive director shall adopt rules relating to administrative sanctions that may be enforced against a license holder regulated by the department. If a license holder violates~~] a law establishing a regulatory program administered by the department, or a rule or order of the commission [~~or executive director, the executive director may:~~

[~~(1) issue a written reprimand to the license holder;~~

[~~(2) revoke or suspend the license holder's license;~~

~~or~~

[~~(3) place the license holder on probation if the person's license has been suspended~~].

(b) The commission may place on probation a person whose license is suspended. If a license suspension is probated, the commission [~~executive director~~] may require the person [~~license holder~~] to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the commission [~~executive director~~]; or

(3) continue or renew professional education [~~in those areas that are the basis for the probation~~] until the person [~~license holder~~] attains a degree of skill satisfactory to the commission in those areas that are the basis for the probation [~~executive director~~].

SECTION 1.019. Chapter 51, Occupations Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. LICENSE REQUIREMENTS

Sec. 51.401. LICENSE EXPIRATION AND RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee

that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

(f) Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

Sec. 51.402. EXAMINATIONS. (a) Not later than the 30th day after the date a person takes a license examination, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service;

and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a license examination, the department shall furnish the person with an analysis of the person's performance on the examination.

Sec. 51.403. EXAMINATION FEE REFUND. (a) The department may refund a license examination fee to a person who is unable to take the examination if the person:

(1) provides reasonable advance notice to the department; or

(2) cannot take the examination because of an emergency.

(b) The commission by rule shall define what constitutes reasonable notice and an emergency under this section.

Sec. 51.404. ENDORSEMENT; RECIPROCITY. (a) The commission may waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(b) The commission may waive any prerequisite to obtaining a license for an applicant who holds a license issued by another

jurisdiction with which this state has a reciprocity agreement. The commission may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

Sec. 51.405. CONTINUING EDUCATION. The commission shall recognize, prepare, or administer continuing education programs for license holders. A license holder must participate in the programs to the extent required by the commission to keep the person's license.

SECTION 1.020. Section 51.205, Occupations Code, is renumbered as Section 51.406, Occupations Code, and amended to read as follows:

Sec. 51.406 [~~51.205~~]. STAGGERED [~~LICENSE EXPIRATION AND~~] RENEWAL OF LICENSES. [~~(a)~~] The commission by rule [~~executive director~~] may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable [~~annually and may provide for a renewal period that exceeds 12 months.~~

[~~(b) The executive director shall notify a person regulated by the department of the impending expiration of the person's license~~].

SECTION 1.021. Chapter 51, Occupations Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TELEPHONE INFORMATION SYSTEM

Sec. 51.451. DEFINITION. In this subchapter, "licensing entity" means a department, commission, board, office, authority, or other agency or governmental entity of this state that issues an occupational license.

Sec. 51.452. TELEPHONE INFORMATION SYSTEM. The department shall establish and operate a toll-free telephone information system to provide assistance and referral services for persons who inquire about a program regulated by a licensing entity.

Sec. 51.453. TELEPHONE LISTING. A licensing entity shall list the toll-free telephone number of the information system with the entity's regular telephone number.

Sec. 51.454. FEES. The department shall charge licensing entities fees in amounts sufficient to cover the cost of implementing this subchapter, including fees on a subscription basis, on the basis of each transaction, or on another service basis.

SECTION 1.022. (a) Except as provided by Subsection (b) of this section, the changes in law made by this article in the prohibitions or qualifications applying to members of the Texas Commission of Licensing and Regulation do not affect the entitlement of a member serving on the commission immediately before September 1, 2003, to continue to serve and function as a member of the commission for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

(b) To implement the changes in law made by this article to the composition of the Texas Commission of Licensing and Regulation

under Section 51.052(a), Occupations Code, of the two positions that have terms scheduled to expire on February 1, 2005, one of the positions is abolished on September 1, 2003. On or before September 1, 2003, the two members whose terms are scheduled to expire on February 1, 2005, shall determine by unanimous agreement or by lot which of the two positions shall be abolished on September 1, 2003, and shall inform the presiding officer of the Texas Commission of Licensing and Regulation of that determination.

SECTION 1.023. Not later than September 1, 2004, the Texas Department of Licensing and Regulation shall implement the toll-free telephone information system required by Section 51.452, Occupations Code, as added by this article.

SECTION 1.024. (a) In this section:

(1) "Department" means the Texas Department of Licensing and Regulation.

(2) "Licensing entity" means a department, commission, board, office, authority, or other agency or governmental entity of this state that issues an occupational license.

(3) "TexasOnline" means the project implemented under Subchapter I, Chapter 2054, Government Code, as added by Chapter 342, Acts of the 77th Legislature, Regular Session, 2001.

(b) Not later than March 1, 2004, the department shall identify licensing entities that do not use TexasOnline.

(c) Not later than September 1, 2004, the department shall assist those entities to develop websites for, and to convert to, TexasOnline.

(d) Licensing entities shall cooperate with the department to implement this section.

SECTION 1.025. Not later than March 1, 2004, the Texas Commission of Licensing and Regulation shall adopt the rules required by Section 51.302(c), Occupations Code, as added by this article.

SECTION 1.026. Section 51.053(c), Occupations Code, is repealed.

SECTION 1.027. Section 51.252, Occupations Code, as amended by this article, takes effect January 1, 2004.

ARTICLE 2. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

SECTION 2.001. Section 1302.002, Occupations Code, is amended by amending Subdivision (5) and adding Subdivision (11-a) to read as follows:

(5) "Air conditioning and refrigeration maintenance work" means all work, including repair work, required for the continued normal performance of an environmental air conditioning system, a process cooling or heating system, a commercial refrigeration system, or commercial refrigeration equipment. The term does not include:

(A) the total replacement of a system; or

(B) the installation or repair of a boiler or pressure vessel that must be installed in accordance with rules adopted by the commission [~~commissioner~~] under Chapter 755, Health and Safety Code.

(11-a) "Executive director" means the executive director of the department.

SECTION 2.002. The heading to Subchapter C, Chapter 1302, Occupations Code, is amended to read as follows:

SUBCHAPTER C. [~~COMMISSIONER AND DEPARTMENT~~] POWERS AND DUTIES

SECTION 2.003. Section 1302.101, Occupations Code, is amended to conform to Section 2, Chapter 790, Acts of the 77th Legislature, Regular Session, 2001, and is further amended to read as follows:

Sec. 1302.101. GENERAL POWERS AND DUTIES [~~OF COMMISSIONER~~]. (a) The commission [~~commissioner~~] shall[~~:~~

[~~(1)~~] adopt rules for the practice of air conditioning and refrigeration contracting that are at least as strict as the standards provided by:

(1) [~~(A)~~] the Uniform Mechanical Code [~~published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as that code exists at the time the rules are adopted~~]; and [~~or~~]

(2) [~~(B)~~] the International [~~Standard~~] Mechanical Code.

(b) The executive director shall [~~published by the Southern Building Code Congress International, Inc., as that code exists at the time the rules are adopted;~~

[~~(2)~~] prescribe the design of an original and a renewal license.

(c) The commission shall[~~; and~~

[~~(3)~~] maintain a record of the commission's [~~commissioner's~~] proceedings under this chapter.

(d) [~~(b)~~] The executive director [~~commissioner~~] may authorize disbursements necessary to implement this chapter, including disbursements for office expenses, equipment costs, and other necessary facilities.

SECTION 2.004. Section 1302.103, Occupations Code, is amended to read as follows:

Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE. The commission [~~commissioner~~], with the advice of the advisory board, shall adopt rules relating to the use, display, and advertisement of a license.

SECTION 2.005. Section 1302.201, Occupations Code, is amended to read as follows:

Sec. 1302.201. ADVISORY BOARD MEMBERSHIP. The air conditioning and refrigeration contractors advisory board consists of six members appointed by the presiding officer of the commission, with the commission's approval, [~~governor with the advice and consent of the senate~~] and two ex officio nonvoting members.

SECTION 2.006. Section 1302.204(a), Occupations Code, is amended to read as follows:

(a) The advisory board shall advise the commission [~~commissioner~~] in adopting rules and in administering and enforcing this chapter.

SECTION 2.007. Section 1302.205(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during an appointed member's term, the presiding officer of the commission, with the commission's

approval, [~~governor~~] shall fill the vacancy for the remainder of the unexpired term with a person who represents the same interests as the predecessor.

SECTION 2.008. Section 1302.206, Occupations Code, is amended to read as follows:

Sec. 1302.206. PRESIDING OFFICER. The presiding officer of the commission, with the commission's approval, [~~governor~~] shall designate one member of the advisory board to serve as presiding officer of the board for two years.

SECTION 2.009. Section 1302.261, Occupations Code, is amended to read as follows:

Sec. 1302.261. TEMPORARY LICENSE. The commission [~~commissioner~~] by rule may provide for the issuance of a temporary air conditioning and refrigeration contracting license to an applicant who:

(1) submits to the executive director [~~commissioner~~] an application on a form prescribed by the executive director [~~commissioner~~]; and

(2) pays the required fees.

SECTION 2.010. Section 1302.354(b), Occupations Code, is amended to read as follows:

(b) The commission [~~commissioner~~] by rule shall adopt requirements governing the registration and issuance of a certificate of registration.

SECTION 2.011. Section 1302.355(c), Occupations Code, is amended to read as follows:

(c) The commission [~~commissioner~~] by rule shall establish

requirements for evidence that satisfies this section.

SECTION 2.012. The following laws are repealed:

(1) Section 1302.002(8), Occupations Code;

(2) Section 1302.107, Occupations Code;

(3) Section 1302.152, Occupations Code;

(4) Section 1302.258, Occupations Code;

(5) Section 1302.259, Occupations Code; and

(6) Chapter 790, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 2.013. The changes in law made by this article applying to members of the air conditioning and refrigeration contractors advisory board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 3. ARCHITECTURAL BARRIERS

SECTION 3.001. Section 4, Article 9102, Revised Statutes, is amended by adding Subdivision (6-a) to read as follows:

<u>(6-a) "Executive director" means the executive director of the department.</u>

SECTION 3.002. Article 9102, Revised Statutes, is amended by adding Section 4A to read as follows:

<u>Sec. 4A. APPLICABILITY OF OTHER LAW. Section 51.404, Occupations Code, does not apply to this article.</u>

SECTION 3.003. Sections 5A(c)-(h) and (j), Article 9102, Revised Statutes, are amended to read as follows:

(c) An applicant for a certificate of registration must file with the commission an application on a form prescribed by the executive director [~~commissioner~~].

(d) To be eligible for a certificate of registration, an applicant must satisfy any requirements adopted by the commission [~~commissioner~~] by rule, including education and examination requirements.

(e) The executive director [~~commissioner~~] may issue a certificate of registration to perform review functions of the commission, inspection functions of the commission, or both review and inspection functions.

(f) The executive director [~~commissioner~~] may administer separate examinations for applicants for certificates of registration to perform review functions, inspection functions, or both review and inspection functions. [~~Not later than the 30th day after the examination date, the commissioner shall notify each examinee of the results of the examination.~~]

(g) The executive director [~~commissioner~~] shall issue an appropriate certificate of registration to an applicant who meets the requirements for a certificate.

(h) The commission [~~commissioner~~] by rule shall specify the term of a certificate of registration issued under this section.

(j) A certificate holder shall perform a review or inspection function of the commission in a competent and professional manner and in compliance with:

(1) standards and specifications adopted by the commission under this article; and

(2) rules adopted by the commission [~~commissioner~~] under this article.

SECTION 3.004. Section 7, Article 9102, Revised Statutes, is amended to read as follows:

Sec. 7. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES. (a) The presiding officer of the commission, with the commission's approval, shall appoint an advisory committee for the architectural barriers program. The committee shall be composed of building professionals and persons with disabilities who are familiar with architectural barrier problems and solutions. The committee shall be composed of at least eight members. Persons with disabilities must make up a majority of the membership.

(b) A committee member serves at the will of the presiding officer of the commission. A member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member.

(c) The presiding officer of the commission, with the commission's approval, [~~committee~~] shall appoint [~~elect~~] a member of the committee as chair for two years. The committee shall meet at least twice each calendar year at the call of the committee chair or at the call of the commission [~~commissioner~~].

(d) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission [~~and the commissioner~~]. The commission shall submit all proposed changes to rules and procedures that relate to the architectural barriers program to the

committee for review and comment before adoption or implementation of the new or amended rule or procedure.

SECTION 3.005. Article 9102, Revised Statutes, is amended by adding Section 9 to read as follows:

Sec. 9. COMPLAINTS. (a) A complaint made under Section 51.252, Occupations Code, that alleges that a building or facility is not in compliance with the standards and specifications adopted by the commission under this article is not eligible for final disposition until the commission determines that:

(1) the building or facility has been brought into compliance or cannot be brought into compliance; or

(2) the building or facility is exempt from compliance by statute or rule.

(b) If the building or facility cannot be brought into compliance or if the building or facility is exempt, the department shall, before final disposition of the complaint, notify the person filing the complaint that the building or facility cannot be brought into compliance or provide a reference to any rule or law that states an applicable exemption.

SECTION 3.006. The following laws are repealed:

(1) Section 4(3), Article 9102, Revised Statutes; and

(2) Section 5A(i), Article 9102, Revised Statutes.

SECTION 3.007. The changes in law made by this article applying to members of the advisory committee for the program for the elimination of architectural barriers do not affect the entitlement of a member serving on the committee immediately before September 1, 2003, to continue to serve and function as a member of

the committee for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 4. AUCTIONEERS

SECTION 4.001. Section 1802.001, Occupations Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Executive director" means the executive director of the department.

SECTION 4.002. Sections 1802.059(a), (b), and (d), Occupations Code, are amended to read as follows:

(a) An applicant for an auctioneer's license who is not a resident of this state but is licensed as an auctioneer in another state must submit to the executive director [~~commissioner~~]:

(1) a license application;

(2) a certified copy of the auctioneer's license issued to the applicant by the state or political subdivision in which the applicant resides; and

(3) proof that the state or political subdivision in which the applicant is licensed has competency standards equivalent to or stricter than those of this state.

(b) The executive director [~~commissioner~~] shall accept the applicant's auctioneer's license submitted under Subsection (a)(2) as proof of the applicant's professional competence and waive the examination and training requirements of Section 1802.052 if the state or political subdivision that issued the nonresident a license extends similar recognition and courtesies to this state.

(d) A nonresident applicant must submit with the

application a written irrevocable consent to service of process. The consent must be in the form and supported by additional information that the commission [~~commissioner~~] by rule requires. The consent must:

(1) provide that an action relating to any transaction subject to this chapter may be commenced against the license holder in the proper court of any county of this state in which the cause of action may arise or in which the plaintiff may reside by service of process on the executive director [~~commissioner~~] as the license holder's agent; and

(2) include a statement stipulating and agreeing that service provided by this section is as valid and binding as if service had been made on the person according to the laws of this or any other state.

SECTION 4.003. Section 1802.101, Occupations Code, is amended to read as follows:

Sec. 1802.101. AUCTIONEER EDUCATION ADVISORY BOARD. The advisory board shall advise the commission [~~commissioner~~] on educational matters.

SECTION 4.004. Sections 1802.102(a) and (b), Occupations Code, are amended to read as follows:

(a) The advisory board consists of five members appointed as follows:

(1) three members who are licensed auctioneers appointed by the presiding officer of the commission, with the commission's approval [~~commissioner~~];

(2) the executive director of the Texas Department of

Economic Development or the director's designee; and

(3) the commissioner of education or the commissioner's designee.

(b) In appointing advisory board members under Subsection (a)(1), the presiding officer of the commission [~~commissioner~~] may not appoint members who reside in contiguous senatorial districts.

SECTION 4.005. Section 1802.103(a), Occupations Code, is amended to read as follows:

(a) The members appointed under Section 1802.102(a)(1) serve two-year terms that expire on September 1. If a vacancy occurs during the term of such a member, the presiding officer of the commission, with the commission's approval, [~~commissioner~~] shall appoint a replacement to serve for the remainder of the term.

SECTION 4.006. Section 1802.104, Occupations Code, is amended to read as follows:

Sec. 1802.104. PRESIDING OFFICER. The presiding officer of the commission, with the commission's approval, shall appoint a member of the advisory board to serve [~~shall designate one of its members~~] as presiding officer of the board. The presiding officer serves for two years.

SECTION 4.007. Section 1802.109, Occupations Code, is amended to read as follows:

Sec. 1802.109. AUCTIONEER EDUCATION PROGRAMS. (a) The advisory board shall:

(1) evaluate educational programs, seminars, and training projects; and

(2) make recommendations to the commission

[~~commissioner~~] on their usefulness and merit as continuing education tools.

(b) On the recommendation of the advisory board, the commission [~~commissioner~~] may fund or underwrite specific classes, seminars, or events for the education and advancement of the auctioneering profession in this state.

SECTION 4.008. Section 1802.153(a), Occupations Code, is amended to read as follows:

(a) In addition to any other fees required by this chapter, an applicant entitled to receive a license under this chapter must pay a fee [~~of $100~~] before the executive director [~~commissioner~~] issues the license.

SECTION 4.009. Section 1802.201, Occupations Code, is amended to read as follows:

Sec. 1802.201. INVESTIGATION OF COMPLAINTS. The executive director [~~commissioner~~] may, on the executive director's [~~commissioner's~~] motion, and shall, on the written [~~and verified~~] complaint of a person aggrieved by the actions of an auctioneer in an auction, investigate an alleged violation of this chapter by a licensed or unlicensed auctioneer or an applicant.

SECTION 4.010. Sections 1802.202(a) and (b), Occupations Code, are amended to read as follows:

(a) A person who deals with an auctioneer licensed under this chapter and who is aggrieved by an action of the auctioneer as a result of a violation of a contract made with the auctioneer may initiate a claim against the fund by[~~:~~

[~~(1)~~] filing with the department a [~~sworn~~] complaint

against the auctioneer[~~, and~~

[~~(2) paying to the department a filing fee of $50~~].

(b) The executive director [~~commissioner~~] may not pay a claim against an auctioneer who was not licensed at the time of the transaction on which the claim is based.

SECTION 4.011. Section 1802.203(c), Occupations Code, is amended to read as follows:

(c) After the hearing, the hearings examiner shall prepare a proposal for decision for the commission [~~commissioner~~].

SECTION 4.012. Section 1802.204, Occupations Code, is amended to read as follows:

Sec. 1802.204. APPEAL. A party may appeal a decision of the commission [~~commissioner~~] in the manner provided for a contested case under Chapter 2001, Government Code.

SECTION 4.013. Section 1802.207, Occupations Code, is amended to read as follows:

Sec. 1802.207. REIMBURSEMENT; INTEREST. (a) If the executive director [~~commissioner~~] pays a claim against an auctioneer, the auctioneer shall:

(1) reimburse the fund immediately or agree in writing to reimburse the fund on a schedule to be determined by rule of the commission [~~commissioner~~]; and

(2) immediately pay the aggrieved party any amount due to that party or agree in writing to pay the party on a schedule to be determined by rule of the commission [~~commissioner~~].

(b) Payments made by an auctioneer to the fund or to an aggrieved party under this section include interest accruing at the

rate of eight percent a year beginning on the date the executive director [~~commissioner~~] pays the claim.

SECTION 4.014. Section 1802.209(a), Occupations Code, is amended to read as follows:

(a) This subchapter and Section 1802.252 do not limit the commission's [~~commissioner's~~] authority to take disciplinary action against a license holder for a violation of this chapter or a rule adopted under this chapter.

SECTION 4.015. Section 1802.251, Occupations Code, is amended to read as follows:

Sec. 1802.251. DENIAL OF APPLICATION; SUSPENSION OR REVOCATION OF LICENSE. The commission [~~commissioner~~] may deny an application for a license or suspend or revoke the license of any auctioneer for:

(1) violating this chapter or a rule adopted under this chapter;

(2) obtaining a license through false or fraudulent representation;

(3) making a substantial misrepresentation in an application for an auctioneer's license;

(4) engaging in a continued and flagrant course of misrepresentation or making false promises through an agent, advertising, or otherwise;

(5) failing to account for or remit, within a reasonable time, money belonging to another that is in the auctioneer's possession and commingling funds of another with the auctioneer's funds or failing to keep the funds of another in an

escrow or trust account; or

(6) [~~being convicted in a court of this state or another state of a criminal offense involving moral turpitude or a felony; or~~

[~~(7)~~] violating the Business & Commerce Code in conducting an auction.

SECTION 4.016. Section 1802.252, Occupations Code, is amended to read as follows:

Sec. 1802.252. REVOCATION FOR CLAIM ON FUND. (a) The commission [~~commissioner~~] may revoke a license issued under this chapter if the executive director [~~commissioner~~] makes a payment from the fund as the result of an action of the license holder.

(b) The commission [~~commissioner~~] may probate an order revoking a license.

(c) An auctioneer is not eligible for a new license until the auctioneer has repaid in full the amount paid from the fund on the auctioneer's account, including interest, unless:

(1) a hearing is held; and

(2) the executive director [~~commissioner~~] issues a new probated license.

SECTION 4.017. Section 1802.253, Occupations Code, is amended to read as follows:

Sec. 1802.253. HEARING. (a) Before denying an application for a license [~~or suspending or revoking a license~~], the commission [~~commissioner~~] shall:

(1) set the matter for a hearing; and

(2) before the [~~30th day before the~~] hearing date,

notify the applicant [~~or license holder~~] in writing of:

(A) the charges alleged or the question to be determined at the hearing; and

(B) the date and location of the hearing.

(b) At a hearing under this section, the applicant [~~or license holder~~] may:

(1) be present and be heard in person or by counsel; and

(2) have an opportunity to offer evidence by oral testimony, affidavit, or deposition.

(c) Written notice may be served by personal delivery to the applicant [~~or license holder~~] or by certified mail to the last known mailing address of the applicant [~~or license holder~~].

(d) If the applicant [~~or license holder~~] who is the subject of the hearing is an associate auctioneer, the commission [~~commissioner~~] shall provide written notice to the auctioneer who employs the associate auctioneer or who has agreed to employ the associate auctioneer by mailing the notice by certified mail to the auctioneer's last known mailing address.

SECTION 4.018. Section 1802.303(a), Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person violates a provision of this chapter or a rule adopted by the commission [~~commissioner~~] under this chapter for which a penalty is not provided.

SECTION 4.019. The following laws are repealed:

(1) Section 1802.001(7), Occupations Code;

(2) Section 1802.057, Occupations Code;

(3) Section 1802.061, Occupations Code; and

(4) Section 1802.254, Occupations Code.

SECTION 4.020. The changes in law made by this article applying to members of the Auctioneer Education Advisory Board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 5. BACKFLOW PREVENTION ASSEMBLY TESTERS

SECTION 5.001. Section 341.034(c), Health and Safety Code, is amended to read as follows:

(c) A person who repairs or tests the installation or operation of backflow prevention assemblies must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code.

SECTION 5.002. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(c), Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or

replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Section 341.034(c), Health and Safety Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Section 341.034(c), Health and Safety Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Section 341.034(c), Health and Safety Code, is transferred to the Texas Department of

Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Section 341.034(c), Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Section 341.034(c), Health and Safety Code, as if that section had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 6. BOILERS

SECTION 6.001. Section 755.001, Health and Safety Code, is amended by amending Subdivisions (5), (6), and (23) and adding Subdivision (7-a) to read as follows:

(5) "Certificate of operation" means a certificate issued by the executive director [~~commissioner~~] to allow the operation of a boiler.

(6) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing~~

~~and regulation~~].

(7-a) "Executive director" means the executive director of the department.

(23) "Standard boiler" means a boiler that bears a Texas stamp, the stamp of a nationally recognized engineering professional society, or the stamp of any jurisdiction that has adopted a standard of construction equivalent to the standard required by the executive director [~~commissioner~~].

SECTION 6.002. Sections 755.011(b) and (d), Health and Safety Code, are amended to read as follows:

(b) The board is composed of the following nine members appointed by the presiding officer of the commission, with the commission's approval [~~commissioner~~]:

(1) three members representing persons who own or use boilers in this state;

(2) three members representing companies that insure boilers in this state;

(3) one member representing boiler manufacturers or installers;

(4) one member who is a mechanical engineer and a member of the faculty of a recognized college of engineering in this state; and

(5) one member representing a labor union.

(d) The executive director [~~commissioner~~] serves as an ex officio board member.

SECTION 6.003. Section 755.013, Health and Safety Code, is amended to read as follows:

Sec. 755.013. PRESIDING OFFICER [~~CHAIRMAN~~]. The chief inspector serves as presiding officer [~~chairman~~] of the board.

SECTION 6.004. Section 755.014, Health and Safety Code, is amended to read as follows:

Sec. 755.014. REMOVAL OF BOARD MEMBERS; VACANCY. (a) The commission [~~commissioner~~] may remove a board member for inefficiency or neglect of official duty.

(b) A board member's office becomes vacant on the resignation, death, suspension, or incapacity of the member. The presiding officer of the commission [~~commissioner~~] shall appoint, in the same manner as the original appointment, a person to serve for the remainder of the unexpired term.

SECTION 6.005. Section 755.016, Health and Safety Code, is amended to read as follows:

Sec. 755.016. MEETINGS. The board shall meet at least twice each year at the call of the presiding officer [~~chairman~~] at a place designated by the board.

SECTION 6.006. Section 755.017, Health and Safety Code, is amended to read as follows:

Sec. 755.017. POWERS AND DUTIES. The board shall advise the commission [~~commissioner~~] in the adoption of definitions and rules relating to the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances.

SECTION 6.007. Section 755.030(a), Health and Safety Code, is amended to read as follows:

(a) In addition to the fees described by Section 51.202,

Occupations Code, the commission may authorize the collection of fees for:

(1) boiler inspections, including fees for special inspections; and

(2) other activities administered by the boiler inspection section and authorized by rule of the commission [~~executive director of the department~~].

SECTION 6.008. Section 755.032, Health and Safety Code, is amended to read as follows:

Sec. 755.032. RULES. (a) The commission [~~commissioner~~] may adopt and enforce rules, in accordance with standard boiler usage, for the construction, inspection, installation, use, maintenance, repair, alteration, and operation of boilers.

(b) The executive director [~~commissioner~~] may exchange information, including data on experience, with other authorities that inspect boilers or their appurtenances, to obtain information necessary to adopt rules.

(c) The executive director [~~commissioner~~] or a department employee may not prescribe the make, brand, or kind of boilers or any appurtenances on the boiler to purchase.

(d) The executive director [~~commissioner~~] or a department employee may not prescribe the make, brand, or kind of boilers to purchase.

SECTION 6.009. Section 755.033, Health and Safety Code, is amended to read as follows:

Sec. 755.033. INTERAGENCY INSPECTION AGREEMENTS. (a) The executive director [~~commissioner~~] shall enter into interagency

agreements with the Texas Department of Health, the Texas Commission on Fire Protection, and the Texas Department [~~State Board~~] of Insurance under which inspectors, marshals, or investigators from those agencies who discover unsafe or unregistered boilers in the course and scope of inspections conducted as part of regulatory or safety programs administered by those agencies are required to report the unsafe or unregistered boilers to the executive director [~~commissioner~~].

(b) The executive director [~~commissioner~~] may enter into analogous agreements with local fire marshals.

(c) The commission [~~commissioner~~] shall adopt rules relating to the terms and conditions of an interagency agreement entered into under this section.

SECTION 6.010. Sections 755.041(b) and (d), Health and Safety Code, are amended to read as follows:

(b) On written request, an owner or operator who does not comply with a preliminary order is entitled to a hearing before the executive director [~~commissioner~~] to show cause for not enforcing the preliminary order. If, after the hearing, the executive director [~~commissioner~~] determines that the boiler is unsafe and that the preliminary order should be enforced, or that other acts are necessary to make the boiler safe, the executive director [~~commissioner~~] may order or confirm the withholding of the certificate of operation for that boiler, and may impose additional requirements as necessary for the repair or alteration of the boiler or the correction of the unsafe conditions.

(d) This section does not limit the executive director's

[~~commissioner's~~] authority under Section 755.028 or the commission's authority under Section 755.032.

SECTION 6.011. Section 755.043(a), Health and Safety Code, is amended to read as follows:

(a) A person, firm, or corporation commits an offense if:

(1) the person, firm, or corporation owns a boiler in this state, has the custody, management, use, or operation of a boiler in this state, or is otherwise subject to this chapter or a rule adopted under this chapter; and

(2) the person, firm, or corporation violates this chapter, a rule adopted under this chapter, or an order issued by the commission, the executive director, [~~commissioner~~] or a regularly employed inspector authorized to enforce this chapter and rules and orders.

SECTION 6.012. Section 755.045, Health and Safety Code, is amended to read as follows:

Sec. 755.045. NOTICE OF RULE OR ORDER REQUIRED BEFORE PROSECUTION. A criminal action may not be maintained against any person relating to the violation of a rule adopted or an order issued under this chapter until the commission [~~commissioner~~] gives notice of the rule or order.

SECTION 6.013. Section 755.046, Health and Safety Code, is amended to read as follows:

Sec. 755.046. AFFIDAVIT OF ORDERS. An affidavit is admissible as evidence in any civil or criminal action involving an order adopted by the commission or the executive director [~~commissioner~~] and the publication of the order, without further

proof of the order's issuance or publication or of the contents of the order, if the affidavit:

(1) is issued under the seal of the commission or the executive director [~~commissioner~~];

(2) is executed by the commission, the executive director [~~commissioner~~], the chief inspector, or a deputy inspector;

(3) states the terms of the order;

(4) states that the order was issued and published; and

(5) states that the order was in effect during the period specified by the affidavit.

SECTION 6.014. The following laws are repealed:

(1) Sections 755.024(c), (d), (e), and (h), Health and Safety Code; and

(2) Section 755.031, Health and Safety Code.

SECTION 6.015. The changes in law made by this article applying to members of the board of boiler rules do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 7. CAREER COUNSELING SERVICES

SECTION 7.001. Section 2502.001, Occupations Code, is amended by amending Subdivision (3) and adding Subdivision (4-a) to read as follows:

(3) "Commission" [~~Commissioner"~~] means the Texas

Commission of Licensing and Regulation [~~commissioner of licensing and regulation~~].

(4-a) "Executive director" means the executive director of the department.

SECTION 7.002. Section 2502.056, Occupations Code, is amended to read as follows:

Sec. 2502.056. RULES. The commission [~~commissioner~~] may adopt rules relating to the administration and enforcement of the certificate of authority program created under this subchapter.

SECTION 7.003. Subchapter B, Chapter 2502, Occupations Code, is amended by adding Section 2502.058 to read as follows:

Sec. 2502.058. APPLICABILITY OF OTHER LAW. Section 51.404 does not apply to this chapter.

SECTION 7.004. Section 2502.202(b), Occupations Code, is amended to read as follows:

(b) Not later than 10 days [~~48 hours~~] after a career counseling service receives a written complaint, the service shall respond to the complaint. Not later than the 30th [~~10th~~] day after the date the complaint is received, the service shall resolve the complaint.

SECTION 7.005. Section 2502.203(a), Occupations Code, is amended to read as follows:

(a) If a career counseling service cannot resolve a complaint within the period described by Section 2502.202, the service shall:

(1) refer the complaint to a qualified independent arbitration organization recognized by the department; and

(2) resolve the complaint not later than the 60th [~~30th~~] day after the date the arbitration begins [~~complaint is referred for arbitration~~].

SECTION 7.006. Section 2502.252, Occupations Code, is amended to read as follows:

Sec. 2502.252. COMPLAINT AND INVESTIGATION. (a) A person [~~by sworn affidavit~~] may file with the executive director [~~commissioner~~] a complaint alleging a violation of this chapter.

(b) On receipt of the complaint, the executive director [~~commissioner~~] shall investigate the alleged violation and may:

(1) inspect any record relevant to the complaint; and

(2) subpoena the record and any necessary witness.

SECTION 7.007. Sections 2502.253(a) and (c), Occupations Code, are amended to read as follows:

(a) If the executive director [~~commissioner~~] determines as a result of an investigation that a violation of this chapter may have occurred, the executive director [~~commissioner~~] shall hold a hearing [~~not later than the 45th day after the date the complaint was filed under Section 2502.252~~].

(c) The executive director [~~commissioner~~] shall render a decision on the alleged violation [~~not later than the eighth day~~] after [~~the date~~] the hearing is concluded.

SECTION 7.008. Section 2502.254, Occupations Code, is amended to read as follows:

Sec. 2502.254. SANCTIONS. (a) If, after a hearing, the commission [~~commissioner~~] determines that a career counseling service has violated this chapter, the commission [~~commissioner~~]

may, as appropriate:

(1) issue a warning to the service; or

(2) suspend or revoke the certificate of authority issued to the service.

(b) If, after a hearing, the commission [~~commissioner~~] determines that a career counseling service has violated this chapter, the executive director [~~commissioner~~] may award the complainant an amount equal to the amount of the fee charged by the service.

SECTION 7.009. Section 2502.255, Occupations Code, is amended to read as follows:

Sec. 2502.255. REISSUANCE OF CERTIFICATE AFTER REVOCATION. If the commission [~~commissioner~~] revokes the certificate of authority of a career counseling service under Section 2502.254, the service and any owner of that service may not apply for a new certificate until after the third anniversary of the date the certificate was revoked.

SECTION 7.010. Sections 2502.057 and 2502.101, Occupations Code, are repealed.

ARTICLE 8. COMBATIVE SPORTS

SECTION 8.001. Section 2052.002, Occupations Code, is amended by amending Subdivision (4) and adding Subdivision (8-a) to read as follows:

(4) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing and regulation or the commissioner's designated representative~~].

(8-a) "Executive director" means the executive

director of the department.

SECTION 8.002. Subchapter A, Chapter 2052, Occupations Code, is amended by adding Section 2052.003 to read as follows:

Sec. 2052.003. APPLICABILITY OF OTHER LAW. Section 51.401 does not apply to this chapter.

SECTION 8.003. The heading to Subchapter B, Chapter 2052, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF DEPARTMENT AND COMMISSIONER~~]

SECTION 8.004. Section 2052.052, Occupations Code, is amended to read as follows:

Sec. 2052.052. RULES. (a) The commission [~~commissioner~~] shall adopt reasonable and necessary rules to administer this chapter.

(b) The commission [~~commissioner~~] may adopt rules:

(1) governing professional kickboxing contests and exhibitions; and

(2) establishing reasonable qualifications for an applicant seeking a license from the department under this chapter.

SECTION 8.005. Section 2052.054, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The commission [~~commissioner~~] may recognize, prepare, or administer continuing education programs for persons licensed under this chapter.

(c) Section 51.405 does not apply to this chapter.

SECTION 8.006. Section 2052.103, Occupations Code, is amended to read as follows:

Sec. 2052.103. ELIMINATION TOURNAMENT BOXING PROMOTER LICENSE APPLICATION REQUIREMENTS. (a) An applicant for an elimination tournament boxing promoter's license under this chapter must apply on a form furnished by the executive director [~~commissioner~~].

(b) An application must be accompanied by an application fee [~~of not more than $1,000~~] and, if the applicant charges a fee for admission to the elimination tournament or awards a trophy, prize, including a prize of money, or other item of value of more than $50 to a contestant winning the elimination tournament:

(1) a $50,000 surety bond subject to approval by the executive director [~~commissioner~~] and conditioned on the applicant's payment of:

(A) the tax imposed under Section 2052.151; and

(B) a claim against the applicant as described by Section 2052.109(a)(3); and

(2) proof of not less than $10,000 accidental death or injury insurance coverage for each contestant participating in the elimination tournament.

SECTION 8.007. Section 2052.251, Occupations Code, is amended to read as follows:

Sec. 2052.251. BOXING GLOVES. A boxing event contestant, other than an elimination tournament contestant under Subchapter E, shall wear eight-ounce boxing gloves, unless the commission [~~commissioner~~] by rule requires or permits a contestant to wear heavier gloves.

SECTION 8.008. The following laws are repealed:

(1) Section 2052.104, Occupations Code;

(2) Section 2052.112, Occupations Code; and

(3) Section 2052.301, Occupations Code.

ARTICLE 9. COURT INTERPRETERS

SECTION 9.001. Section 57.041, Government Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 9.002. Sections 57.042(a), (c), (e), and (g), Government Code, are amended to read as follows:

(a) The licensed court interpreter advisory board is established as an advisory board to the commission [~~department~~]. The board is composed of nine members appointed by the presiding officer of the commission, with the commission's approval [~~governor~~]. Members of the board serve staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year.

(c) The presiding officer of the commission, with the commission's approval, [~~At the initial meeting of the board and at the first meeting after new members take office, the board~~] shall select from the board [~~its~~] members a presiding officer of the board to serve for two years.

(e) The presiding officer of the commission, with the commission's approval, [~~commissioner~~] may remove a member of the board for inefficiency or neglect of duty in office. If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, [~~governor~~] shall appoint a member who

represents the same interests as the former member to serve the unexpired term.

(g) The board shall advise the commission [~~commissioner~~] regarding the adoption of rules and the design of a licensing examination.

SECTION 9.003. Sections 57.043(a) and (b), Government Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a court interpreter license to an applicant who:

(1) can interpret for an individual who can hear but who does not comprehend English or communicate in English;

(2) passes the appropriate examination prescribed by the executive director [~~commissioner~~]; and

(3) possesses the other qualifications for the license required by this subchapter or by rules adopted under this subchapter.

(b) The commission [~~commissioner~~] shall[~~:~~

[~~(1)~~] adopt rules relating to licensing under this subchapter[~~;~~] and the executive director shall

[~~(2)~~] prescribe all forms required under this subchapter.

SECTION 9.004. Section 57.048, Government Code, is amended to read as follows:

Sec. 57.048. SUSPENSION AND REVOCATION OF LICENSES; REISSUANCE. (a) After a hearing, the commission [~~commissioner~~] shall suspend or revoke a court interpreter license on a finding that the individual:

(1) made a material misstatement in an application for a license;

(2) [~~wilfully~~] disregarded or violated this subchapter or a rule adopted under this subchapter; or

(3) [~~has been convicted of a felony or of any crime in which an essential element of the offense is misstatement, fraud, or dishonesty; or~~

[~~(4)~~] engaged in dishonorable or unethical conduct likely to deceive, defraud, or harm the public or a person for whom the interpreter interprets.

(b) The executive director [~~commissioner~~] may reissue a license to an individual whose license has been revoked if the individual applies in writing to the department and shows good cause to justify reissuance of the license.

SECTION 9.005. Section 57.041(3), Government Code, is repealed.

SECTION 9.006. The changes in law made by this article applying to members of the licensed court interpreter advisory board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 10. CUSTOMER SERVICE INSPECTORS

SECTION 10.001. Section 341.034(d), Health and Safety Code, is amended to read as follows:

(d) A person who inspects homes and businesses to identify

potential or actual cross-connections or other contaminant hazards in public water systems must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code, unless the person is licensed by the Texas State Board of Plumbing Examiners as a plumbing inspector or water supply protection specialist.

SECTION 10.002. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(d), Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(d), Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Section 341.034(d), Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Section 341.034(d), Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Section 341.034(d), Health and Safety Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Section 341.034(d), Health and Safety Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Section 341.034(d), Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Section 341.034(d), Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this

article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Section 341.034(d), Health and Safety Code, as if that section had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 11. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

SECTION 11.001. Section 754.011, Health and Safety Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Executive director" means the executive director of the department.

SECTION 11.002. Sections 754.012(a)-(c), Health and Safety Code, are amended to read as follows:

(a) The elevator advisory board is composed of nine members appointed by the presiding officer of the commission, with the commission's approval, [~~commissioner~~] as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of elevator, escalator, and related equipment constructors;

(3) a representative of owners or managers of buildings having fewer than six stories and having an elevator, an escalator, or related equipment;

(4) a representative of owners or managers of buildings having six stories or more and having an elevator, an escalator, or related equipment;

(5) a representative of independent elevator, escalator, and related equipment maintenance companies;

(6) a representative of elevator, escalator, and related equipment manufacturers;

(7) a representative of professional engineers or architects;

(8) a public member; and

(9) a public member with a physical disability.

(b) Board members serve at the will of the commission [~~commissioner~~].

(c) The presiding officer of the commission, with the commission's approval, [~~commissioner~~] shall appoint a presiding officer of the board to serve for two years.

SECTION 11.003. Section 754.013, Health and Safety Code, is amended to read as follows:

Sec. 754.013. BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the commission [~~commissioner~~] on:

(1) the adoption of appropriate standards for the installation, alteration, operation, and inspection of elevators, escalators, and related equipment;

(2) the status of elevators, escalators, and related equipment used by the public in this state; and

(3) any other matter considered relevant by the commission [~~commissioner~~].

SECTION 11.004. The heading to Section 754.014, Health and Safety Code, is amended to read as follows:

Sec. 754.014. STANDARDS ADOPTED BY COMMISSION [~~COMMISSIONER~~].

SECTION 11.005. Sections 754.014(a)-(h) and (j), Health and Safety Code, are amended to read as follows:

(a) The commission [~~commissioner~~] shall adopt standards for the installation, alteration, operation, and inspection of elevators, escalators, and related equipment used by the public in:

(1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and

(2) buildings that contain an elevator, an escalator, or related equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) Standards adopted by the commission [~~commissioner~~] may not contain requirements in addition to the requirements in the ASME Code A17.1 or ASME Code A17.3.

(c) Standards adopted by the commission [~~commissioner~~] must require elevators, escalators, and related equipment to comply with the installation requirements of the following, whichever is the least restrictive:

(1) the ASME Code A17.1 that was in effect on the date of installation of the elevators, escalators, and related equipment; or

(2) an applicable municipal ordinance governing the installation of elevators, escalators, and related equipment that was in effect on the date of installation.

(d) Standards adopted by the commission [~~commissioner~~] must require elevators, escalators, and related equipment to comply with the installation requirements of the 1994 ASME Code A17.3 that contains minimum safety standards for all elevators, escalators, and related equipment, regardless of the date of installation.

(e) On written request, the executive director [~~commissioner~~] shall grant a delay for compliance with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3 until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act.

(f) On written request, the executive director [~~commissioner~~] shall grant a delay until September 1, 2005, for compliance with the requirements for door restrictors or firefighter's service in the 1994 ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation of the elevator, escalator, or related equipment and that equipment was not subsequently installed by an owner of the elevator, escalator, or related equipment.

(g) The executive director [~~commissioner~~] may grant a waiver of compliance with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3 if the executive director [~~commissioner~~] finds that:

(1) the building in which the elevator, escalator, or related equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; and

(2) noncompliance will not constitute a significant threat to passenger safety.

(h) The executive director [~~commissioner~~] may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the 1994 ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(j) The executive director [~~commissioner~~] may charge a reasonable fee as set by the commission for an application for waiver or delay. One application for a waiver or delay may contain all requests related to a particular building. A delay may not be granted indefinitely but must be granted to a specified time.

SECTION 11.006. Section 754.015, Health and Safety Code, is amended to read as follows:

Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by rule shall provide for:

(1) the inspection and certification once each calendar year of elevators, escalators, and related equipment covered by standards adopted under this subchapter;

(2) the enforcement of those standards;

(3) the certification of qualified persons as inspectors for the purposes of this subchapter; and

(4) the form of the inspection report and certificate of compliance.

(b) The commission [~~commissioner~~] by rule may not require

that:

(1) inspection be made more often than once per year of elevators, escalators, and related equipment; or

(2) persons post a bond or furnish insurance as a condition of certification[~~; and~~

[~~(3) inspection reports or certificates of compliance be placed in locations other than one provided in Section 754.019(4)~~].

SECTION 11.007. Section 754.016, Health and Safety Code, is amended to read as follows:

Sec. 754.016. INSPECTION REPORTS [~~REPORT~~] AND CERTIFICATES [~~CERTIFICATE~~] OF COMPLIANCE. (a) Inspection reports [~~An inspection report~~] and certificates [~~a certificate~~] of compliance required under this subchapter must cover all elevators, escalators, and related equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons. [~~There shall be only one inspection report and one certificate of compliance for each building.~~]

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner. The inspection report shall be on forms designated by the executive director [~~commissioner~~].

(c) The executive director [~~commissioner~~] shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state:

(1) that the elevators, escalators, and related

equipment have been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the executive director [~~commissioner~~] and stated in the certificate;

(2) the date of the last inspection and the due date for the next inspection; and

(3) contact information at the department to report a violation of this subchapter.

(d) The commission by rule shall:

(1) specify what information must be contained in a certificate of compliance;

(2) describe the procedure by which a certificate of compliance is issued;

(3) require that a certificate of compliance related to an elevator be posted in a publicly visible area of the building; and

(4) determine what constitutes a "publicly visible area" under Subdivision (3).

SECTION 11.008. Sections 754.017(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The commission [~~commissioner~~] may not by rule prohibit an ASME-QEI-1 certified inspector who is registered with the department from inspecting under this subchapter an elevator, an escalator, or related equipment. A person assisting a certified inspector is not required to be ASME-QEI-1 certified.

(c) The executive director [~~commissioner~~] may charge a [~~$15~~] fee to certified inspectors for registering with the

department.

SECTION 11.009. Sections 754.019(a), (b), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) The owner of real property on which an elevator, an escalator, or related equipment covered by this subchapter is located shall:

(1) have the elevator, escalator, or related equipment inspected by an ASME-QEI-1 certified inspector in accordance with the commission's [~~commissioner's~~] rules;

(2) obtain inspection reports [~~an inspection report~~] from the inspector evidencing that all elevators, escalators, and related equipment in a building on the real property were inspected in accordance with this subchapter and rules adopted under this subchapter;

(3) file with the executive director [~~commissioner~~] a copy of each inspection report and a [~~$20~~] filing fee for each report, plus a fee [~~$5~~] for each elevator, escalator, or related equipment not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance:

(A) in a publicly visible area of the building, as determined by commission rule under Section 754.016, [~~the elevator mechanical room~~] if the certificate relates to an elevator;

(B) in the escalator box if the certificate relates to an escalator; or

(C) in a place designated by the executive

director [~~commissioner~~] if the certificate relates to related equipment; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued by the executive director [~~commissioner~~].

(b) When an inspection report is filed with the executive director [~~commissioner~~], the owner shall submit to the executive director [~~commissioner~~]:

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(d) For the purpose of determining timely filing under Subsection (a)(3), an inspection report and fee are considered filed on the date of mailing by United States mail if properly addressed to the executive director [~~commissioner~~].

(e) If the inspection report and fee required by Subsection (a)(3) are not timely filed, the executive director [~~commissioner~~] may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional [~~$100~~] fee for late filing.

SECTION 11.010. Section 754.023, Health and Safety Code, is amended to read as follows:

Sec. 754.023. INVESTIGATION; LICENSE PROCEEDINGS; INJUNCTION. (a) If there is good cause for the executive director [~~commissioner~~] to believe that an elevator, an escalator, or

related equipment on real property is dangerous or that an accident involving an elevator, an escalator, or related equipment occurred on the property and serious bodily injury or property damage resulted, the executive director [~~commissioner~~] may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the elevator, escalator, or related equipment or investigate the accident at no cost to the owner.

(b) The executive director [~~commissioner~~] may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission [~~commissioner~~] may deny, suspend, or revoke the registration of any ASME-QEI-1 certified inspector for:

(1) obtaining registration with the executive director [~~commissioner~~] by fraud or false representation;

(2) falsifying any inspection report submitted to the executive director [~~commissioner~~]; or

(3) violating this subchapter or a rule adopted under this subchapter.

(d) The executive director [~~commissioner~~] is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(e) The executive director [~~commissioner~~] may bring suit in a district court in Travis County or in the county in which the

violation or threatened violation occurs. If requested, the attorney general shall represent the executive director [~~commissioner~~] in the suit.

SECTION 11.011. Subchapter B, Chapter 754, Health and Safety Code, is amended by adding Section 754.025 to read as follows:

Sec. 754.025. APPLICABILITY OF OTHER LAW. Sections 51.401 and 51.404, Occupations Code, do not apply to this subchapter.

SECTION 11.012. The following laws are repealed:

(1) Section 754.011(5), Health and Safety Code; and

(2) Section 754.019(f), Health and Safety Code.

SECTION 11.013. Not later than March 1, 2004, the Texas Commission of Licensing and Regulation shall adopt the rules required by Sections 754.016 and 754.019(a), Health and Safety Code, as amended by this article.

SECTION 11.014. The changes in law made by this article apply only to an inspection report or certificate of compliance issued on or after the effective date of this Act. An inspection report or certificate issued before the effective date of this Act is covered by the law in effect when the report or certificate was issued and is valid until the renewal date of that report or certificate under the terms of the former law, and the former law is continued in effect for that purpose. On renewal, an inspection report or certificate is subject to Chapter 754, Health and Safety Code, as amended by this article.

SECTION 11.015. The changes in law made by this article applying to members of the elevator advisory board do not affect

the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 12. INDUSTRIALIZED HOUSING AND BUILDINGS

SECTION 12.001. Section 1202.001, Occupations Code, is amended by amending Subdivision (2) and adding Subdivision (4-a) to read as follows:

(2) "Construction site office building" means a commercial structure that is:

(A) not open to the public; and

(B) used as an office at a commercial site by a person constructing a building, road, bridge, utility, or other infrastructure or improvement to real property [~~"Commissioner" means the commissioner of licensing and regulation~~].

(4-a) "Executive director" means the executive director of the department.

SECTION 12.002. Section 1202.003(a), Occupations Code, is amended to read as follows:

(a) An industrialized building is a commercial structure that is:

(1) constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial [~~permanent~~] site; and

(2) designed to be used as a commercial building when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

SECTION 12.003. Section 1202.101, Occupations Code, is amended to read as follows:

Sec. 1202.101. RULES; ORDERS. (a) The commission [~~commissioner~~] shall adopt rules and issue orders as necessary to:

(1) ensure compliance with the purposes of this chapter; and

(2) provide for uniform enforcement of this chapter.

(b) The commission [~~commissioner~~] shall adopt rules as appropriate to implement the council's actions, decisions, interpretations, and instructions.

SECTION 12.004. Section 1202.102, Occupations Code, is amended to read as follows:

Sec. 1202.102. RULES PROVIDING FOR REGISTRATION AND REGULATION. The commission [~~commissioner~~] by rule shall provide for registration and regulation of manufacturers or builders of industrialized housing or buildings.

SECTION 12.005. Section 1202.104(a), Occupations Code, is amended to read as follows:

(a) The commission shall set fees, in amounts sufficient to cover the costs of the inspections described by this chapter and the administration of this chapter, for:

(1) the registration of manufacturers or builders of industrialized housing or buildings;

(2) the inspection of industrialized housing or buildings [~~at the manufacturing facility~~]; and

(3) the issuance of decals or insignia required under Section 1202.204 or 1202.206.

SECTION 12.006. Subchapter C, Chapter 1202, Occupations Code, is amended by adding Section 1202.106 to read as follows:

Sec. 1202.106. APPLICABILITY OF OTHER LAW. Sections 51.401 and 51.404 do not apply to this chapter.

SECTION 12.007. Subchapter D, Chapter 1202, Occupations Code, is amended by adding Section 1202.1535 to read as follows:

Sec. 1202.1535. EFFECT OF BUILDING CODE AMENDMENT. (a) An industrialized building that bears an approved decal or insignia indicating that the building complies with the mandatory building codes and that has not been modified or altered is considered to be in compliance with a new mandatory building code adopted by the council or an amendment to a code approved by the council under Section 1202.152 or 1202.153.

(b) The owner of an industrialized building that bears an approved decal or insignia indicating the building complies with the mandatory building codes and that is modified or altered after the date the council adopts a new mandatory building code or the council approves a building code amendment must ensure:

(1) the entire building complies with the mandatory building code or building code amendment if the cost of the modification or alteration to the building is at least 50 percent of the value of the modules or modular components used in the construction of the building; or

(2) the modified or altered portion of the building complies with the mandatory building code or building code amendment if the cost of the modification or alteration is less than 50 percent of the value of the modules or modular components.

SECTION 12.008. Section 1202.154, Occupations Code, is amended to read as follows:

Sec. 1202.154. DESIGN REVIEW. To ensure compliance with the mandatory building [~~construction~~] codes, the department or approved design review agency shall review all designs, plans, and specifications of industrialized housing and buildings in accordance with council interpretations and instructions.

SECTION 12.009. Section 1202.156(b), Occupations Code, is amended to read as follows:

(b) With reference to the standards and requirements of the mandatory building [~~construction~~] codes, the council shall determine, from an engineering performance standpoint, all questions concerning:

(1) code equivalency; or

(2) alternative materials or methods of construction.

SECTION 12.010. Section 1202.202, Occupations Code, is amended to read as follows:

Sec. 1202.202. DEPARTMENT [~~IN-PLANT~~] INSPECTIONS. (a) To ensure compliance with the mandatory building codes or approved designs, plans, and specifications, the department shall inspect the construction of industrialized housing and buildings [~~at the manufacturing facility~~]. The executive director [~~commissioner~~] may designate approved third-party inspectors to perform the inspections subject to the rules of the commission [~~commissioner~~].

(b) Local building officials may witness department [~~in-plant~~] inspections to enable the local officials to make recommendations on inspection procedures to the council.

SECTION 12.011. Section 1202.203, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A municipal building official shall inspect all construction involving [~~at the permanent site of~~] industrialized housing and buildings to be located in the municipality to ensure compliance with designs, plans, and specifications, including inspection of:

(1) the construction of the foundation system; and

(2) the erection and installation of the modules or modular components on the [~~permanent~~] foundation.

(c) An inspection under Subsection (a) shall be conducted:

(1) at the permanent site, if the inspection is of industrialized housing; and

(2) at the commercial site, if the inspection is of industrialized buildings.

SECTION 12.012. Section 1202.204, Occupations Code, is amended to read as follows:

Sec. 1202.204. RULES PROVIDING FOR DECALS OR INSIGNIA. (a) The commission [~~commissioner~~] by rule shall provide for the placement of decals or insignia on each transportable modular section or modular component to indicate compliance with the mandatory building [~~construction~~] codes.

(b) The commission by rule shall exempt a construction site office building from the requirements of this section.

SECTION 12.013. Section 1202.252, Occupations Code, is amended to read as follows:

Sec. 1202.252. MUNICIPAL REGULATION OF INDUSTRIALIZED HOUSING AND BUILDINGS. (a) A municipality that regulates the on-site construction or installation of industrialized housing and buildings may:

(1) require and review, for compliance with mandatory building [~~construction~~] codes, a complete set of designs, plans, and specifications bearing the council's stamp of approval for each installation of industrialized housing or buildings in the municipality;

(2) require that all applicable local permits and licenses be obtained before construction begins on a building site;

(3) require, in accordance with commission [~~commissioner~~] rules, that all modules or modular components bear an approved decal or insignia indicating inspection by the department [~~at the manufacturing facility~~]; and

(4) establish procedures for the inspection of:

(A) the erection and installation of industrialized housing or buildings to be located in the municipality, to ensure compliance with mandatory building [~~construction~~] codes and commission [~~commissioner~~] rules; and

(B) all foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

(b) Procedures described by Subsection (a)(4) may require:

(1) before occupancy, a final inspection or test in accordance with mandatory building [~~construction~~] codes; and

(2) correction of any deficiency identified by the

test or discovered in the final inspection.

SECTION 12.014. Section 1202.301(b), Occupations Code, is amended to read as follows:

(b) A person may not construct, sell or offer to sell, lease or offer to lease, or transport over a street or highway of this state any industrialized housing or building, or modular section or component of a modular section, in violation of this chapter or a rule of the commission or order of the commission or executive director [~~commissioner~~].

SECTION 12.015. Section 1202.302, Occupations Code, is amended to read as follows:

Sec. 1202.302. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. In addition to imposing sanctions allowed under Section 51.353, the commission [~~The commissioner~~] may deny, permanently revoke, or suspend for a definite period and specified location or geographic area a certificate of registration if the commission [~~commissioner~~] finds that the applicant or registrant:

(1) provided false information on an application or other document filed with the department;

(2) failed to pay a fee or file a report required by the department for the administration or enforcement of this chapter;

(3) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code; or

(4) violated:

(A) this chapter;

(B) a rule adopted by the commission or order issued by the commission or the executive director [~~commissioner~~] under this chapter; or

(C) a decision, action, or interpretation of the council.

SECTION 12.016. Section 1202.351(b), Occupations Code, is amended to read as follows:

(b) A person commits an offense if the person [~~knowingly and wilfully~~] violates this chapter or a published rule of the commission or order of the commission or the executive director [~~commissioner~~].

SECTION 12.017. The following laws are repealed:

(1) Section 1202.001(2), Occupations Code; and

(2) Section 1202.103, Occupations Code.

ARTICLE 13. IRRIGATORS

SECTION 13.001. Section 1903.001, Occupations Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (2-a) to read as follows:

(1) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission of Licensing and Regulation.

(2-a) "Department" means the Texas Department of Licensing and Regulation.

(3) "Executive director" means the executive director of the department [~~commission~~].

SECTION 13.002. Section 1903.151(a), Occupations Code, is amended to read as follows:

(a) The Texas Irrigators Advisory Council consists of nine

members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1) six members who are irrigators, residents of this state, experienced in the irrigation business, and familiar with irrigation methods and techniques; and

(2) three public members.

SECTION 13.003. Section 1903.155, Occupations Code, is amended to read as follows:

Sec. 1903.155. PRESIDING OFFICER. The presiding officer of the commission, with the commission's approval, [~~council~~] shall appoint a council member to serve for two years as [~~elect a~~] presiding officer of the council [~~by a majority vote at the first meeting each fiscal year~~].

SECTION 13.004. The following laws are repealed:

(1) Section 1903.052, Occupations Code;

(2) Section 1903.055, Occupations Code;

(3) Subchapter C, Chapter 1903, Occupations Code;

(4) Subchapter E, Chapter 1903, Occupations Code;

(5) Section 1903.255, Occupations Code;

(6) Section 1903.304, Occupations Code;

(7) Section 1903.351, Occupations Code;

(8) Section 1903.352, Occupations Code; and

(9) Sections 1903.353(b) and (c), Occupations Code.

SECTION 13.005. (a) On November 1, 2003:

(1) all functions and activities relating to Chapter 1903, Occupations Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred

to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Chapter 1903, Occupations Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Chapter 1903, Occupations Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Chapter 1903, Occupations Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Chapter 1903, Occupations Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Chapter 1903, Occupations Code, are transferred to the

Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Chapter 1903, Occupations Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Chapter 1903, Occupations Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Chapter 1903, Occupations Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 14. PERSONNEL EMPLOYMENT SERVICES

SECTION 14.001. Section 2501.001, Occupations Code, is amended by amending Subdivision (2) and adding Subdivisions (3-a) and (4-a) to read as follows:

(2) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing~~

~~and regulation~~].

(3-a) "Department" means the Texas Department of Licensing and Regulation.

(4-a) "Executive director" means the executive director of the department.

SECTION 14.002. Section 2501.152, Occupations Code, is amended to read as follows:

Sec. 2501.152. COMPLAINT AND INVESTIGATION. (a) A person [~~by sworn affidavit~~] may file with the executive director [~~commissioner~~] a complaint alleging a violation of Section 2501.102.

(b) On receipt of a complaint, the executive director [~~commissioner~~] shall investigate the alleged violation and may:

(1) inspect any records relevant to the complaint; and

(2) subpoena those records and any necessary witnesses.

SECTION 14.003. Sections 2501.153(a) and (c), Occupations Code, are amended to read as follows:

(a) If the executive director [~~commissioner~~] determines as a result of an investigation that a violation of Section 2501.102 may have occurred, the commission [~~commissioner~~] shall hold a hearing [~~not later than the 45th day after the date the complaint was filed under Section 2501.152~~].

(c) The commission [~~commissioner~~] shall render a decision on the alleged violation [~~not later than the eighth day~~] after [~~the date~~] the hearing is concluded.

SECTION 14.004. Section 2501.154, Occupations Code, is

amended to read as follows:

Sec. 2501.154. SANCTIONS. (a) If, after a hearing, the commission [~~commissioner~~] determines that a personnel service has violated Section 2501.102, the commission [~~commissioner~~] may, as appropriate:

(1) issue a warning to the personnel service; or

(2) suspend or revoke the certificate of authority issued to the personnel service.

(b) If, after a hearing, the commission [~~commissioner~~] determines that a personnel service has violated Section 2501.102, the commission [~~commissioner~~] may award the complainant an amount equal to the amount of the fee charged by the personnel service.

SECTION 14.005. Sections 2501.058 and 2501.155, Occupations Code, are repealed.

ARTICLE 15. PROPERTY TAX CONSULTANTS

SECTION 15.001. Section 1152.001, Occupations Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Executive director" means the executive director of the department.

SECTION 15.002. The heading to Subchapter B, Chapter 1152, Occupations Code, is amended to read as follows:

SUBCHAPTER B. DUTIES OF COMMISSION, EXECUTIVE DIRECTOR, [~~COMMISSIONER~~] AND DEPARTMENT

SECTION 15.003. Section 1152.051, Occupations Code, is amended to read as follows:

Sec. 1152.051. STANDARDS OF CONDUCT FOR REGISTRANTS. The commission [~~commissioner~~] by rule shall establish standards of

practice, conduct, and ethics for registrants.

SECTION 15.004. Sections 1152.102(a) and (b), Occupations Code, are amended to read as follows:

(a) The council is composed of six members appointed by the presiding officer of the commission, with the commission's approval.

(b) The presiding officer of the commission may appoint not more than two members who are qualified for an exemption under Section 1152.002(a)(3).

SECTION 15.005. Section 1152.104(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, [~~commissioner~~] shall appoint to fill the unexpired part of the term a replacement who meets the qualifications of the vacated office.

SECTION 15.006. Section 1152.105, Occupations Code, is amended to read as follows:

Sec. 1152.105. PRESIDING OFFICER. The presiding officer of the commission, with the commission's approval, [~~Before March 1 of each year, the council~~] shall appoint [~~elect~~] a member of the council to serve as presiding officer of the council for two years [~~until the last day of February of the following year~~].

SECTION 15.007. Section 1152.108, Occupations Code, is amended to read as follows:

Sec. 1152.108. COUNCIL POWERS. The council shall:

(1) recommend to the commission [~~commissioner~~]

standards of practice, conduct, and ethics for registrants to be adopted under this chapter;

(2) recommend to the commission amounts for the fees it may set under this chapter;

(3) recommend to the commission [~~commissioner~~] contents for the senior property tax consultant registration examination and standards of acceptable performance;

(4) assist and advise the commission [~~commissioner~~] in recognizing continuing education programs and educational courses for registrants; and

(5) advise the commission [~~commissioner~~] in establishing educational requirements for initial applicants.

SECTION 15.008. Section 1152.155(a), Occupations Code, is amended to read as follows:

(a) To be eligible for registration, an applicant must:

(1) be at least 18 years of age;

(2) hold a high school diploma or its equivalent;

(3) pay the fees required by the commission;

(4) have a place of business in this state or designate a resident of this state as the applicant's agent for service of process; and

(5) meet any additional qualifications required by this chapter or by the commission [~~commissioner~~] under this chapter or Chapter 51.

SECTION 15.009. Section 1152.160, Occupations Code, is amended to read as follows:

Sec. 1152.160. SENIOR PROPERTY TAX CONSULTANT REGISTRATION

EXAMINATION. (a) The executive director [~~commissioner~~] shall:

(1) adopt an examination for registration as a senior property tax consultant; and

(2) establish the standards for passing the examination.

(b) The department shall offer the examination at times and places designated by the executive director [~~commissioner~~].

(c) To be eligible to take the examination, an applicant must pay to the department an examination fee. [~~The commissioner by rule may establish conditions for refunding the examination fee to an applicant who does not take the examination.~~]

(d) The examination must:

(1) test the applicant's knowledge of:

(A) property taxation;

(B) the property tax system;

(C) property tax administration;

(D) ethical standards; and

(E) general principles of appraisal, accounting, and law as they relate to property tax consulting services; and

(2) be graded according to rules adopted by the commission [~~commissioner~~].

SECTION 15.010. Section 1152.201, Occupations Code, is amended to read as follows:

Sec. 1152.201. TERM OF CERTIFICATE OF REGISTRATION. Except as otherwise provided by the commission, a certificate of registration expires on the first [~~second~~] anniversary of the date of issuance.

SECTION 15.011. Section 1152.202(a), Occupations Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue to an eligible registrant a certificate of renewal of registration on the timely receipt of the required renewal fee. [~~The certificate expires on the second anniversary of the date of issuance.~~]

SECTION 15.012. Section 1152.204, Occupations Code, is amended to read as follows:

Sec. 1152.204. RECOGNITION OF EDUCATIONAL PROGRAMS AND COURSES. (a) The commission [~~commissioner~~] by rule shall recognize appropriate continuing education programs for registrants.

(b) The commission [~~commissioner~~] shall recognize a continuing education course, including a course on the legal issues and law related to property tax consulting services, that is:

(1) approved by the Texas Real Estate Commission or the Texas Appraiser Licensing and Certification Board; and

(2) completed by a registrant who also holds:

(A) an active real estate broker license or an active real estate salesperson license under Chapter 1101; or

(B) an active real estate appraiser license or certificate under Chapter 1103.

(c) The commission [~~commissioner~~] may recognize an educational program or course:

(1) related to property tax consulting services; and

(2) offered or sponsored by a public provider or a recognized private provider, including:

(A) the comptroller;

(B) the State Bar of Texas;

(C) the Texas Real Estate Commission;

(D) an institution of higher education that meets program and accreditation standards comparable to those for public institutions of higher education as determined by the Texas Higher Education Coordinating Board; or

(E) a nonprofit and voluntary trade association, institute, or organization:

(i) whose membership consists primarily of persons who represent property owners in property tax or transactional tax matters;

(ii) that has written experience and examination requirements for membership or for granting professional designation to its members; and

(iii) that subscribes to a code of professional conduct or ethics.

(d) The commission [~~commissioner~~] may recognize a private provider of an educational program or course if the provider:

(1) applies to the department on a printed form prescribed by the executive director [~~commissioner~~]; and

(2) pays in the amounts set by the commission:

(A) a nonrefundable application fee; and

(B) an educational provider's fee.

(e) The department shall refund the educational provider's fee if the commission [~~commissioner~~] does not recognize the provider's educational program or course.

SECTION 15.013. Section 1152.251, Occupations Code, is amended to read as follows:

Sec. 1152.251. DISCIPLINARY POWERS OF COMMISSION [~~COMMISSIONER~~]. After a hearing, the commission [~~commissioner~~] may deny a certificate of registration and may impose an administrative sanction or penalty and seek injunctive relief and a civil penalty against a registrant as provided by Chapter 51 for:

(1) a violation of this chapter or a rule applicable to the registrant adopted by the commission [~~commissioner~~] under this chapter;

(2) gross incompetency in the performance of property tax consulting services;

(3) dishonesty or fraud committed while performing property tax consulting services; or

(4) a violation of the standards of ethics adopted by the commission [~~commissioner~~].

SECTION 15.014. The following laws are repealed:

(1) Section 1152.001(2), Occupations Code;

(2) Section 1152.161, Occupations Code;

(3) Section 1152.163, Occupations Code;

(4) Sections 1152.202(b) and (c), Occupations Code; and

(5) Effective March 1, 2004, Section 1152.203, Occupations Code.

SECTION 15.015. The change in law made by this article to Section 1152.201, Occupations Code, applies only to a certificate of registration issued or renewed on or after the effective date of

this Act. A certificate of registration issued or renewed before the effective date of this Act is governed by that section as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 15.016. The changes in law made by this article applying to members of the Property Tax Consultants Advisory Council do not affect the entitlement of a member serving on the council immediately before September 1, 2003, to continue to serve and function as a member of the council for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 16. SERVICE CONTRACT PROVIDERS

SECTION 16.001. Section 1304.002, Occupations Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Executive director" means the executive director of the department.

SECTION 16.002. Section 1304.051, Occupations Code, is amended to read as follows:

Sec. 1304.051. SERVICE CONTRACT PROVIDERS ADVISORY BOARD. (a) The Service Contract Providers Advisory Board consists of six members appointed by the presiding officer of the commission, with the commission's approval, [~~commissioner~~] and one ex officio nonvoting member.

(b) Of the appointed members:

(1) two must be officers, directors, or employees of a provider of service contracts that have been approved by the executive director [~~commissioner~~];

(2) two must be officers, directors, or employees of a retail outlet or other entity in this state that provides to consumers service contracts approved by the executive director [~~commissioner~~] for sale to consumers;

(3) one must be an officer, director, or employee of an entity authorized by the Texas Department of Insurance to sell reimbursement insurance policies; and

(4) one must be a resident of this state who holds, as a consumer, a service contract that is in force in this state on the date of the member's appointment and was issued by a provider registered under this chapter.

(c) The executive director [~~commissioner~~] or the executive director's [~~commissioner's~~] designee serves as an ex officio nonvoting member of the advisory board.

SECTION 16.003. Section 1304.052(a), Occupations Code, is amended to read as follows:

(a) The advisory board shall advise the commission [~~commissioner~~] in adopting rules and in administering and enforcing this chapter.

SECTION 16.004. Section 1304.053(b), Occupations Code, is amended to read as follows:

(b) If a vacancy occurs during an appointed member's term, the presiding officer of the commission [~~commissioner~~] shall fill the vacancy for the remainder of the unexpired term with a person who represents the same interests as the predecessor.

SECTION 16.005. Section 1304.054, Occupations Code, is amended to read as follows:

Sec. 1304.054. PRESIDING OFFICER. The presiding officer of the commission [~~commissioner~~] shall designate one member of the advisory board to serve as presiding officer of the board for two years.

SECTION 16.006. Sections 1304.103(a) and (b), Occupations Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall develop a tiered schedule of annual registration fees under which a provider's registration fee is based on the number of service contracts the provider sold in this state during the preceding 12-month period.

(b) The commission shall set the amounts of the fees to cover the costs of administering this chapter. [~~The maximum fee may not exceed $2,000.~~]

SECTION 16.007. Subchapter C, Chapter 1304, Occupations Code, is amended by adding Section 1304.105 to read as follows:

Sec. 1304.105. RENEWAL. The commission shall adopt rules regarding the renewal of a registration issued under this chapter.

SECTION 16.008. Sections 1304.151(a)-(c) and (e), Occupations Code, are amended to read as follows:

(a) To ensure the faithful performance of a provider's obligations to its service contract holders, each provider must:

(1) insure the provider's service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or by a surplus lines insurer eligible to place coverage in this state under Chapter 981 [~~Article 1.14-2~~], Insurance Code;

(2) maintain a funded reserve account covering the provider's obligations under its service contracts that are issued and outstanding in this state and place in trust with the executive director [~~commissioner~~] a financial security deposit consisting of:

(A) a surety bond issued by an authorized surety;

(B) securities of the type eligible for deposit by an authorized insurer in this state;

(C) a statutory deposit of cash or cash equivalents;

(D) a letter of credit issued by a qualified financial institution; or

(E) another form of security prescribed by rules adopted by the commission [~~commissioner~~]; or

(3) maintain, or have a parent company that maintains, a net worth or stockholders' equity of at least $100 million.

(b) If the provider ensures its obligations under Subsection (a)(2), the amount maintained in the reserve account may not be less than an amount equal to 40 percent of the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in this state, minus any claims paid. The executive director [~~commissioner~~] may review and examine the reserve account. The amount of the security deposit may not be less than the greater of:

(1) $25,000; or

(2) an amount equal to five percent of the gross consideration the provider received from consumers from the sale of

all service contracts issued and outstanding in this state, minus any claims paid.

(c) If the provider ensures its obligations under Subsection (a)(3), the provider must give to the executive director [~~commissioner~~] on request:

(1) a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the preceding calendar year; or

(2) if the provider or the provider's parent company does not file with the Securities and Exchange Commission, a copy of the provider's or the provider's parent company's audited financial statements showing a net worth of the provider or its parent company of at least $100 million.

(e) The executive director [~~commissioner~~] may not require a provider to meet any additional financial security requirement.

SECTION 16.009. Section 1304.201(a), Occupations Code, is amended to read as follows:

(a) On a finding that a ground for disciplinary action exists under this chapter, the commission [~~commissioner~~] may impose an administrative sanction, including an administrative penalty, as provided by Chapter 51.

SECTION 16.010. The following laws are repealed:

(1) Section 1304.002(3), Occupations Code; and

(2) Section 1304.201(b), Occupations Code.

SECTION 16.011. The changes in law made by this article applying to members of the Service Contract Providers Advisory

Board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 17. STAFF LEASING SERVICES

SECTION 17.001. Section 91.001, Labor Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Executive director" means the executive director of the department.

SECTION 17.002. Sections 91.002(a) and (b), Labor Code, are amended to read as follows:

(a) The commission [~~commissioner~~] shall adopt rules as necessary to administer this chapter.

(b) Each person who offers staff leasing services is subject to this chapter and the rules adopted by the commission [~~commissioner~~].

SECTION 17.003. Subchapter A, Chapter 91, Labor Code, is amended by adding Section 91.008 to read as follows:

Sec. 91.008. APPLICABILITY OF CONTINUING EDUCATION LAW. Section 51.405, Occupations Code, does not apply to this chapter.

SECTION 17.004. Section 91.016(b), Labor Code, is amended to read as follows:

(b) A license issued or renewed by the department under this chapter is valid for one year [~~two years~~] from the date of the issuance or renewal. The department shall renew a license on

receipt of a complete renewal application form and payment of the license renewal fee.

SECTION 17.005. Section 91.017(a), Labor Code, is amended to read as follows:

(a) Each applicant for an original or renewal staff leasing services company license shall pay to the department before the issuance of the license or license renewal a fee set by the commission by rule [~~in an amount not to exceed $6,000 for the two-year license period~~].

SECTION 17.006. Sections 91.018(b) and (d), Labor Code, are amended to read as follows:

(b) A license holder may change the license holder's licensed name at any time by notifying the department and paying a fee for each change of name. The commission by rule shall set the fee for a name change [~~in an amount not to exceed $50~~]. A license holder may change the license holder's name on renewal of the license without the payment of the name change fee.

(d) A license holder may amend the name specified in its license to add a trade name, trademark, service mark, or parent company name. An amendment made under this subsection must comply with the requirements imposed under Subsection (a). The department may charge a fee [~~not to exceed $50~~] for processing of such an amendment.

SECTION 17.007. Section 91.019(a), Labor Code, is amended to read as follows:

(a) The <u>commission</u> [~~commissioner~~] by rule shall provide for the issuance of a limited license to a person who seeks to offer

limited staff leasing services in this state.

SECTION 17.008. Section 91.020, Labor Code, is amended to read as follows:

Sec. 91.020. GROUNDS FOR DISCIPLINARY ACTION. [~~(a)~~] The department may take disciplinary action against a license holder on any of the following grounds:

(1) [~~being convicted or having a controlling person of the license holder who is convicted of:~~

[~~(A) bribery, fraud, or intentional or material misrepresentation in obtaining, attempting to obtain, or renewing a license;~~

[~~(B) a crime that relates to the operation of a staff leasing service or the ability of the license holder or any controlling person of the license holder to operate a staff leasing service;~~

[~~(C) a crime that relates to the classification, misclassification, or under-reporting of employees under Subtitle A, Title 5;~~

[~~(D) a crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance; or~~

[~~(E) a crime that relates to fraud, deceit, or misconduct in the operation of a staff leasing service;~~

[~~(2)~~] engaging in staff leasing services or offering to engage in the provision of staff leasing services without a license;

(2) [~~(3)~~] transferring or attempting to transfer a

license issued under this chapter;

(3) [~~(4)~~] violating this chapter or any order or rule issued by the executive director [~~department~~] or commission [~~commissioner~~] under this chapter;

(4) [~~(5)~~] failing after the 31st day after the date on which a felony conviction of a controlling person is final to notify the department in writing of the conviction;

(5) [~~(6)~~] failing to cooperate with an investigation, examination, or audit of the license holder's records conducted by the license holder's insurance company or the insurance company's designee, as allowed by the insurance contract or as authorized by law by the Texas Department of Insurance;

(6) [~~(7)~~] failing after the 31st day after the effective date of a change in ownership, principal business address, or the address of accounts and records to notify the department and the Texas Department of Insurance of the change;

(7) [~~(8)~~] failing to correct any tax filings or payment deficiencies within a reasonable time as determined by the executive director [~~commissioner~~];

(8) [~~(9)~~] refusing, after reasonable notice, to meet reasonable health and safety requirements within the license holder's control and made known to the license holder by a federal or state agency;

(9) [~~(10)~~] being delinquent in the payment of the license holder's insurance premiums other than those subject to a legitimate dispute;

(10) [~~(11)~~] being delinquent in the payment of any

employee benefit plan premiums or contributions other than those subject to a legitimate dispute;

(11) [~~(12)~~] knowingly making a material misrepresentation to an insurance company or to the department or other governmental agency;

(12) [~~(13)~~] failing to maintain the net worth requirements required under Section 91.014; or

(13) [~~(14)~~] using staff leasing services to avert or avoid an existing collective bargaining agreement.

[~~(b) For purposes of this section, "conviction" includes a plea of nolo contendere or a finding of guilt, regardless of adjudication.~~]

SECTION 17.009. Section 91.041(c), Labor Code, is amended to read as follows:

(c) The commission [~~commissioner~~] by rule may require a license holder to file other reports that are reasonably necessary for the implementation of this chapter.

SECTION 17.010. The following laws are repealed:

(1) Section 91.001(5), Labor Code; and

(2) Section 91.021, Labor Code.

SECTION 17.011. The change in law made by this article to Section 91.016(b), Labor Code, applies only to a license issued or renewed on or after January 1, 2004. A license issued or renewed before January 1, 2004, is governed by that section as it existed immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 18. TALENT AGENCIES

SECTION 18.001. Section 2105.001, Occupations Code, is amended by amending Subdivision (2) and adding Subdivision (3-a) to read as follows:

(2) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of licensing and regulation~~].

(3-a) "Executive director" means the executive director of the department.

SECTION 18.002. Section 2105.002, Occupations Code, is amended to read as follows:

Sec. 2105.002. POWERS AND DUTIES [~~OF DEPARTMENT~~]. (a) The executive director [~~department~~] shall[~~:~~

[~~(1)~~] prescribe application forms for original and renewal certificates of registration.

(b) The commission shall:[~~;~~]

(1) [~~(2)~~] set application and registration fees in amounts that are reasonable and necessary to defray the costs of administering this chapter; and

(2) [~~(3)~~] adopt rules as necessary to implement this chapter.

(c) [~~(b)~~] The commission [~~department~~] may[~~:~~

[~~(1)~~] adopt rules as necessary to administer the registration program created under this chapter.

(d) The department may[~~; and~~

[~~(2)~~] take other action as necessary to enforce this chapter.

SECTION 18.003. Subchapter A, Chapter 2105, Occupations

Code, is amended by adding Section 2105.003 to read as follows:

Sec. 2105.003. APPLICABILITY OF OTHER LAW. Section 51.405 does not apply to this chapter.

SECTION 18.004. Section 2105.053, Occupations Code, is amended to read as follows:

Sec. 2105.053. REGISTRATION FEE. The department may charge a talent agency a reasonable fee [~~not to exceed $100~~] to cover the cost of filing a registration statement or an update of a registration statement.

SECTION 18.005. Section 2105.104, Occupations Code, is amended to read as follows:

Sec. 2105.104. AGENCY RECORDS. A certificate holder shall maintain records relating to the operation of the talent agency as required by commission [~~department~~] rule.

SECTION 18.006. Section 2105.105(b), Occupations Code, is amended to read as follows:

(b) Funds deposited under this section may be disbursed only as prescribed by commission [~~department~~] rule.

SECTION 18.007. The following laws are repealed:

(1) Sections 2105.055(b) and (c), Occupations Code;

(2) Sections 2105.056(a), (b), and (c), Occupations Code; and

(3) Section 2105.252, Occupations Code.

ARTICLE 19. TEMPORARY COMMON WORKER EMPLOYERS

SECTION 19.001. Section 92.002, Labor Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive

director of the department.

SECTION 19.002. Subchapter A, Chapter 92, Labor Code, is amended by adding Section 92.004 to read as follows:

Sec. 92.004. APPLICABILITY OF OTHER LAW. Section 51.405, Occupations Code, does not apply to this chapter.

SECTION 19.003. Section 92.022(c), Labor Code, is amended to read as follows:

(c) Information received by the commission [~~commissioner~~] or department under this section is privileged and confidential and is for the exclusive use of the commission [~~commissioner~~] or department. The information may not be disclosed to any other person except on the entry of a court order requiring disclosure or on the written consent of a person under investigation who is the subject of the records.

SECTION 19.004. The following laws are repealed:

(1) Section 92.002(2), Labor Code; and

(2) Sections 92.015(b) and (c), Labor Code.

ARTICLE 20. TRANSPORTATION SERVICE PROVIDERS

SECTION 20.001. Section 2401.001(2), Occupations Code, is amended to read as follows:

(2) "Department" means the [~~Texas~~] Department of Public Safety [~~Licensing and Regulation~~].

SECTION 20.002. The heading to Subchapter B, Chapter 2401, Occupations Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES [~~OF COMMISSION, COMMISSIONER, AND DEPARTMENT~~]

SECTION 20.003. Section 2401.052, Occupations Code, is

amended to read as follows:

Sec. 2401.052. EXAMINATION OR AUDIT. (a) To administer this chapter, the department may:

(1) examine:

(A) a record maintained under Section 2401.152; or

(B) a record or object the department determines is necessary to conduct a complete examination; or

(2) question under oath any person who[~~:~~

[~~(A)~~] is associated with the business of a transportation service provider[~~; or~~

[~~(B) claims the person was negatively affected by a violation of this chapter committed by a transportation service provider~~].

(b) The department may periodically audit the business records of a transportation service provider [~~registered under this chapter~~].

SECTION 20.004. Section 2401.251, Occupations Code, is amended to read as follows:

Sec. 2401.251. CIVIL PENALTY. A transportation service provider who knowingly violates this chapter [~~or a rule adopted under this chapter~~] is liable for a civil penalty of not less than $100 or more than $500 for each violation.

SECTION 20.005. Section 2401.253, Occupations Code, is amended to read as follows:

Sec. 2401.253. AUTHORITY TO INVESTIGATE AND FILE COMPLAINT. (a) The department [~~commissioner, with the assistance of the Texas~~

~~Department of Public Safety,~~] may investigate a violation of this chapter [~~or a rule adopted under this chapter~~].

(b) Any [~~The commissioner or any~~] law enforcement agency may file a complaint with:

(1) the district attorney of Travis County; or

(2) the prosecuting attorney of the county in which a violation is alleged to have occurred.

SECTION 20.006. The following laws are repealed:

(1) Section 2401.001(1), Occupations Code;

(2) Section 2401.051, Occupations Code;

(3) Section 2401.053, Occupations Code;

(4) Section 2401.054, Occupations Code;

(5) Subchapter C, Chapter 2401, Occupations Code;

(6) Section 2401.151, Occupations Code; and

(7) Subchapter E, Chapter 2401, Occupations Code.

SECTION 20.007. (a) On November 1, 2003:

(1) all functions and activities relating to Chapter 2401, Occupations Code, performed by the Texas Department of Licensing and Regulation immediately before that date are transferred to the Department of Public Safety;

(2) a reference in law or an administrative rule to the Texas Department of Licensing and Regulation that relates to Chapter 2401, Occupations Code, means the Department of Public Safety;

(3) a complaint, investigation, or other proceeding before the Texas Department of Licensing and Regulation that is related to Chapter 2401, Occupations Code, is transferred without

change in status to the Department of Public Safety, and the Department of Public Safety assumes, as appropriate and without a change in status, the position of the Texas Department of Licensing and Regulation in an action or proceeding to which the Texas Department of Licensing and Regulation is a party;

(4) all money, contracts, leases, property, and obligations of the Texas Department of Licensing and Regulation related to Chapter 2401, Occupations Code, are transferred to the Department of Public Safety;

(5) all property in the custody of the Texas Department of Licensing and Regulation related to Chapter 2401, Occupations Code, is transferred to the Department of Public Safety; and

(6) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Department of Licensing and Regulation related to Chapter 2401, Occupations Code, is transferred to the Department of Public Safety.

(b) An offense or other violation related to Chapter 2401, Occupations Code, committed before the effective date of this Act is covered by the law as it existed on the date on which the offense or other violation was committed, and the former law is continued in effect for that purpose.

(c) Before November 1, 2003, the Texas Department of Licensing and Regulation may agree with the Department of Public Safety to transfer any property of the Texas Department of Licensing and Regulation to the Department of Public Safety to implement the transfer required by this article.

(d) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Department of Licensing and Regulation shall continue to perform functions and activities under Chapter 2401, Occupations Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 21. UNDERGROUND STORAGE TANK OPERATORS

SECTION 21.001. Section 26.451, Water Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Department" means the Texas Department of Licensing and Regulation.

SECTION 21.002. Sections 26.452(a) and (b), Water Code, are amended to read as follows:

(a) A person who offers to undertake, represents that the person is able to undertake, or undertakes to install, repair, or remove an underground storage tank must hold a registration issued by the department [~~commission~~] under Chapter 51, Occupations Code [~~37~~]. If the person is a partnership or joint venture, it need not register in its own name if each partner or joint venture is registered.

(b) An underground storage tank contractor must have an on-site supervisor who is licensed by the department [~~commission~~] under Chapter 51, Occupations Code, [~~37~~] at the site at all times during the critical junctures of the installation, repair, or removal.

SECTION 21.003. Section 26.456(a), Water Code, is amended to read as follows:

(a) A person supervising the installation, repair, or removal of an underground storage tank must hold a license issued by the department [~~commission~~] under Chapter 51, Occupations Code [~~37~~].

SECTION 21.004. (a) On November 1, 2003:

(1) all functions and activities relating to Subchapter K, Chapter 26, Water Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Subchapter K, Chapter 26, Water Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Subchapter K, Chapter 26, Water Code, is transferred

without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Subchapter K, Chapter 26, Water Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this Act and ending on November 1, 2003, the Texas Commission on

Environmental Quality shall continue to perform functions and activities under Subchapter K, Chapter 26, Water Code, as if that subchapter had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 22. VEHICLE PROTECTION PRODUCT WARRANTORS

SECTION 22.001. Section 2, Article 9035, Revised Statutes, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 22.002. Article 9035, Revised Statutes, is amended by adding Section 3A to read as follows:

Sec. 3A. APPLICABILITY OF OTHER LAW. Section 51.405, Occupations Code, does not apply to this article.

SECTION 22.003. Section 4, Article 9035, Revised Statutes, is amended to read as follows:

Sec. 4. POWERS AND DUTIES [~~OF COMMISSIONER~~]. (a) The commission [~~commissioner~~] may adopt rules as necessary to implement this article.

(b) The executive director [~~commissioner~~] may conduct investigations of warrantors or other persons as reasonably necessary to enforce this article and to protect consumers in this state. On request of the executive director [~~commissioner~~], a warrantor shall make the warrantor's records maintained under Section 10 of this article regarding vehicle protection products sold by the warrantor available to the department as necessary to enable the department to reasonably determine compliance with this article.

SECTION 22.004. Sections 5(a)-(g), Article 9035, Revised Statutes, are amended to read as follows:

(a) The Vehicle Protection Product Warrantor Advisory Board is an advisory body to the commission [~~department~~]. The advisory board shall advise[~~:~~

[~~(1)~~] the commission [~~commissioner~~] on adopting rules, [~~and~~] enforcing and administering this article, [~~;~~] and

[~~(2) the commission on~~] setting fees.

(b) The advisory board consists of six members appointed by the presiding officer of the commission [~~commissioner~~] as follows:

(1) two members who are officers, directors, or employees of a warrantor who has been approved or expects to be approved by the department;

(2) two members who are officers, directors, or employees of a retail outlet or other entity located in this state that sells vehicle protection products and is approved or expected to be approved by the department; and

(3) two members who are residents of this state and, at the time of appointment, are consumers of vehicle protection products issued by warrantors registered or expected to be registered under this article.

(c) Members of the advisory board serve staggered six-year terms, with the terms of two members expiring on February 1 of each odd-numbered year. [~~The commissioner shall appoint the initial six board members to terms of six years or less in order to create staggered terms for the subsequent members of the advisory board.~~]

(d) The presiding officer of the commission [~~commissioner~~]

shall designate one member of the advisory board to serve as presiding officer of the board for two years.

(e) The executive director [~~commissioner~~] or the executive director's [~~commissioner's~~] designee serves as an ex officio nonvoting member of the advisory board.

(f) The presiding officer of the commission [~~commissioner~~] shall fill any vacancy on the advisory board by appointing an individual who meets the qualifications for the vacant advisory board position to serve the remainder of the unexpired term.

(g) The advisory board shall meet at least every six months and may meet at other times at the call of the presiding officer of the board or the presiding officer of the commission [~~commissioner~~]. The advisory board shall meet at a location in this state designated by the [~~advisory~~] board.

SECTION 22.005. Sections 6(c) and (d), Article 9035, Revised Statutes, are amended to read as follows:

(c) Each registered warrantor shall pay an annual registration fee [~~not to exceed $2,500~~] as set by the commission to cover the costs of administering this article. The department shall develop a tiered fee structure under which registration fees are assessed on warrantors based on the number of vehicle protection products sold within this state in the 12 months preceding the date of registration. The information submitted to the department under this section regarding the number of vehicle protection products sold by a warrantor may only be used by the department in determining the tiered fee structure. Information concerning the number of vehicle protection products sold by a

warrantor submitted under this section is a trade secret and subject to Section 552.110, Government Code.

(d) The commission [~~commissioner~~] shall adopt rules providing for the renewal of a warrantor's registration.

SECTION 22.006. Section 10(e), Article 9035, Revised Statutes, is amended to read as follows:

(e) The commission [~~commissioner~~] shall adopt rules governing how a warrantor shall protect nonpublic personal information provided by a consumer to the warrantor.

SECTION 22.007. Sections 16(a) and (c), Article 9035, Revised Statutes, are amended to read as follows:

(a) The executive director [~~commissioner~~] may bring an action against a warrantor for injunctive relief under Section 51.352, Occupations Code, for a threatened or existing violation of this article or of the [~~commissioner's~~] orders or rules adopted under this article.

(c) For purposes of this section [~~and Section 15 of this article~~], violations are of a similar nature if the violations consist of the same or a similar course of conduct, action, or practice, regardless of the number of times the conduct, act, or practice determined to be a violation of this article occurred.

SECTION 22.008. The following laws are repealed:

(1) Section 2(2), Article 9035, Revised Statutes; and

(2) Section 15, Article 9035, Revised Statutes.

SECTION 22.009. The changes in law made by this article applying to members of the Vehicle Protection Product Warrantor Advisory Board do not affect the entitlement of a member serving on

the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 23. WATER TREATMENT SPECIALISTS

SECTION 23.001. Section 341.034(e), Health and Safety Code, is amended to read as follows:

(e) Unless the person is licensed by the Texas State Board of Plumbing Examiners, a person must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code, if, under a contract, the person:

(1) installs, exchanges, connects, maintains, or services potable water treatment equipment and appliances in public or private water systems; or

(2) analyzes water to determine how to treat influent or effluent water, alter or purify water, or add or remove a mineral, chemical, or bacterial content or substance as part of the complete installation, exchange, connection, maintenance, or service of potable water treatment equipment and appliances.

SECTION 23.002. Section 341.101, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission of Licensing and Regulation.

(1-a) "Department" means the Texas Department of Licensing and Regulation.

SECTION 23.003. Section 341.103, Health and Safety Code, is amended to read as follows:

Sec. 341.103. CERTIFICATION REQUIRED. A person may not engage in water treatment unless the person first obtains a certificate from the department [~~commission~~] under the program established under this subchapter.

SECTION 23.004. Section 341.104, Health and Safety Code, is amended to read as follows:

Sec. 341.104. APPLICATION FOR CERTIFICATION. A person desiring to obtain certification under the program established under this subchapter shall file with the department [~~commission~~]:

(1) an application in the form prescribed by the department [~~commission~~] and containing the information required by the department [~~commission~~]; and

(2) the appropriate certification fee.

SECTION 23.005. Section 341.105(a), Health and Safety Code, is amended to read as follows:

(a) On receipt of an application that meets department [~~commission~~] requirements and the required fee, the department [~~commission~~] shall issue to a person who meets department [~~commission~~] standards for certification a certificate stating that the person is qualified to install, exchange, service, and repair residential, commercial, or industrial water treatment facilities.

SECTION 23.006. Section 3, Chapter 504, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 23.007. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(3) a license or other document issued by the Texas Commission on Environmental Quality that relates to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is considered a license or other document issued by the Texas Department of Licensing and Regulation and remains in effect until amended or replaced by that department;

(4) a reference in law or an administrative rule to the Texas Commission on Environmental Quality that relates to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, means the Texas Department of Licensing and Regulation;

(5) a complaint, investigation, or other proceeding before the Texas Commission on Environmental Quality that is related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is transferred without change in status to the Texas Department of Licensing and

Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Commission on Environmental Quality in an action or proceeding to which the Texas Commission on Environmental Quality is a party;

(6) all money, contracts, leases, property, and obligations of the Texas Commission on Environmental Quality related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Commission on Environmental Quality related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Environmental Quality related to Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, is transferred to the Texas Department of Licensing and Regulation.

(b) Before November 1, 2003, the Texas Commission on Environmental Quality may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Commission on Environmental Quality to the Texas Department of Licensing and Regulation to implement the transfer required by this article.

(c) In the period beginning on the effective date of this

Act and ending on November 1, 2003, the Texas Commission on Environmental Quality shall continue to perform functions and activities under Section 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341, Health and Safety Code, as if those provisions had not been amended by this Act, and the former law is continued in effect for that purpose.

ARTICLE 24. WATER WELL DRILLERS

SECTION 24.001. Section 1901.001, Occupations Code, is amended by adding Subdivisions (7-a) and (7-b) to read as follows:

(7-a) "Executive director" means the executive director of the department.

(7-b) "Groundwater conservation district" means a district to which Chapter 36, Water Code, applies.

SECTION 24.002. Section 1901.051, Occupations Code, is amended to read as follows:

Sec. 1901.051. LICENSING. (a) The department, with the advice of the council, shall prepare licensing examinations.

(b) The department shall [~~and~~] evaluate the qualifications of license applicants.

(c) [~~(b)~~] The executive director [~~commissioner~~] shall issue licenses to applicants who qualify.

SECTION 24.003. Section 1901.052, Occupations Code, is amended to read as follows:

Sec. 1901.052. RULES. (a) The commission [~~commissioner, with advice and comment from the Texas Natural Resource Conservation Commission,~~] shall adopt rules as necessary to enforce this chapter, including rules governing:

(1) license applications;

(2) qualifications of applicants;

(3) standards of conduct for drillers, including standards for marking well drilling rigs and equipment; and

(4) procedures and practices before the department.

(b) The commission [~~commissioner~~] may not adopt a rule under this chapter that:

(1) regulates the installation or repair of well pumps and equipment by:

(A) a person on property the person owns or controls for the person's own use;

(B) an employee of a person described by Paragraph (A); or

(C) a person who is not hired or compensated and who acts on behalf of a person described by Paragraph (A); or

(2) requires a person who owns or controls property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

SECTION 24.004. Section 1901.101(a), Occupations Code, is amended to read as follows:

(a) The Texas Water Well Drillers Advisory Council consists of nine members appointed by the presiding officer of the commission, with the commission's approval, [~~department~~] as follows:

(1) six members who are drillers experienced in the

well drilling business and familiar with well drilling, completion, and plugging methods and techniques; and

(2) three public members.

SECTION 24.005. Section 1901.105, Occupations Code, is amended to read as follows:

Sec. 1901.105. PRESIDING OFFICER. The presiding officer of the commission [~~council~~] shall appoint [~~elect~~] a member of the council to serve as presiding officer of the council for two years [~~by a majority vote at the first meeting each year~~].

SECTION 24.006. Sections 1901.109(a) and (d), Occupations Code, are amended to read as follows:

(a) The council may propose rules for adoption by the commission [~~commissioner~~] relating to the regulation of drillers registered under this chapter.

(d) The council shall assist the commission [~~department~~] in evaluating continuing education programs.

SECTION 24.007. Section 1901.152(b), Occupations Code, is amended to read as follows:

(b) An applicant must pay to the department an [~~a nonrefundable~~] examination fee at the time the application is submitted.

SECTION 24.008. Section 1901.162, Occupations Code, is amended to read as follows:

Sec. 1901.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. The commission [~~commissioner~~] may adopt rules allowing waiver of a license requirement for an applicant who is licensed in another state that has license requirements substantially

equivalent to those of this state.

SECTION 24.009. Section 1901.251(a), Occupations Code, is amended to read as follows:

(a) Each driller who drills, deepens, or otherwise alters a water well in this state shall make and keep a legible and accurate well log in accordance with rules adopted by the commission and on forms prescribed by the executive director [~~commissioner~~]. The well log shall be recorded at the time of drilling, deepening, or otherwise altering the well and must contain:

(1) the depth, thickness, and character of the strata penetrated;

(2) the location of water-bearing strata;

(3) the depth, size, and character of casing installed; and

(4) any other information required by rules adopted by the commission [~~commissioner~~].

SECTION 24.010. Section 1901.252(b), Occupations Code, is amended to read as follows:

(b) The commission [~~commissioner~~] shall adopt rules specifying the manner for marking a rig.

SECTION 24.011. Section 1901.253, Occupations Code, is amended to read as follows:

Sec. 1901.253. COMPLETING WATER WELL. A driller shall complete a well under standards and procedures adopted by the commission [~~commissioner~~].

SECTION 24.012. Section 1901.254(b), Occupations Code, is amended to read as follows:

(b) The driller shall ensure that the well is plugged, repaired, or properly completed under standards and procedures adopted by the commission [~~commissioner~~].

SECTION 24.013. Section 1901.255, Occupations Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) Not later than the 180th day after the date a landowner or other person who possesses an abandoned or deteriorated well learns of its condition, the landowner or other person shall have the well plugged or capped under standards and procedures adopted by the commission [~~commissioner~~].

(d) Not later than the 30th day after the date the well is plugged, a [~~A~~] driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well shall submit a plugging report to:

(1) the board of directors of the groundwater conservation district in which the well is located, if the well is located in the boundaries of a groundwater conservation district; and

(2) the executive director [~~commissioner not later than the 30th day after the date the well is plugged~~].

(e) The department or the groundwater conservation district in which the well is located shall furnish plugging report forms on request. The executive director shall prescribe the content of the forms.

SECTION 24.014. Subchapter F, Chapter 1901, Occupations Code, is amended by adding Section 1901.256 to read as follows:

Sec. 1901.256. ENFORCEMENT BY GROUNDWATER CONSERVATION DISTRICT. (a) This section applies only to a violation related to a well located in the boundaries of the groundwater conservation district seeking to bring an action under this section.

(b) A groundwater conservation district shall enforce compliance with Section 1901.255 related to wells located in the boundaries of the district.

(c) A groundwater conservation district may bring an action to enjoin a person from violating Section 1901.255.

(d) A groundwater conservation district may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter that is related to Section 1901.255.

(e) A groundwater conservation district may bring an action to recover a civil penalty under Section 1901.401 for a violation of this chapter or a rule adopted under this chapter related to Section 1901.255.

(f) The groundwater conservation district may bring the action in the county in which:

(1) the offending activity occurred; or

(2) the person engaging in the activity resides.

SECTION 24.015. Subchapter F, Chapter 1901, Occupations Code, is amended by adding Section 1901.257 to read as follows:

Sec. 1901.257. MEMORANDUM OF UNDERSTANDING REGARDING ABANDONED WELLS. (a) In this section, "abandoned well" and "deteriorated well" have the meanings assigned by Section 1901.255.

(b) The Texas Commission on Environmental Quality and the

department shall by rule adopt or revise a joint memorandum of understanding to coordinate the efforts of the department, groundwater conservation districts, and the field offices of the Texas Commission on Environmental Quality relating to investigative procedures for referrals of complaints regarding abandoned and deteriorated wells.

(c) Each groundwater conservation district in which an abandoned or deteriorated well is located shall join the memorandum of understanding adopted under Subsection (b).

SECTION 24.016. Section 1901.301, Occupations Code, is amended to read as follows:

Sec. 1901.301. GROUNDS FOR DISCIPLINARY ACTION. The commission [~~commissioner~~] may discipline a person under Section 51.353 for a violation of this chapter or a rule adopted under this chapter, including:

(1) an intentional misstatement or misrepresentation of a fact on an application or well log or to a person for whom a well is being drilled, deepened, or otherwise altered;

(2) the failure to keep, deliver, or send a well log as required by Section 1901.251;

(3) the failure to advise a person for whom a well is being drilled that:

(A) injurious water has been encountered;

(B) the water is a pollution hazard; and

(C) the well must be immediately plugged in an acceptable manner; or

(4) the failure to complete a well in accordance with

standards and procedures adopted by the commission [~~commissioner~~].

SECTION 24.017. The following laws are repealed:

(1) Section 1901.001(2), Occupations Code;

(2) Section 1901.109(e), Occupations Code;

(3) Section 1901.155(b), Occupations Code;

(4) Section 1901.156, Occupations Code;

(5) Section 1901.157, Occupations Code;

(6) Section 1901.160, Occupations Code;

(7) Section 1901.205, Occupations Code;

(8) Section 1901.302, Occupations Code;

(9) Section 1901.303, Occupations Code;

(10) Section 1901.304, Occupations Code; and

(11) Subchapter H, Chapter 1901, Occupations Code.

SECTION 24.018. The changes in law made to Section 1901.255, Occupations Code, by this article do not affect the status of a complaint, investigation, or other proceeding that commenced before September 1, 2003. A groundwater conservation district, as appropriate and without a change in status, assumes the position of the executive director of the Texas Department of Licensing and Regulation in an action or proceeding relating to a well located in the boundaries of that groundwater conservation district.

SECTION 24.019. The changes in law made by this article applying to members of the Texas Water Well Drillers Advisory Council do not affect the entitlement of a member serving on the council immediately before September 1, 2003, to continue to serve and function as a member of the council for the remainder of the

member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 25. WATER WELL PUMP INSTALLERS

SECTION 25.001. Section 1902.001, Occupations Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 25.002. Section 1902.051, Occupations Code, is amended to read as follows:

Sec. 1902.051. LICENSING. (a) The department, with the advice of the council, shall prepare licensing examinations.

(b) The department shall [~~and~~] evaluate the qualifications of license applicants.

(c) [~~(b)~~] The executive director [~~commissioner~~] shall issue licenses to applicants who qualify.

SECTION 25.003. Section 1902.052, Occupations Code, is amended to read as follows:

Sec. 1902.052. RULES. (a) The commission [~~commissioner~~] shall adopt rules as necessary to enforce this chapter.

(b) The commission [~~commissioner~~] may not adopt a rule under this chapter that:

(1) regulates the installation or repair of well pumps and equipment by:

(A) a person on property the person owns or controls for the person's own use;

(B) an employee of a person described by Paragraph (A); or

(C) a person who is not hired or compensated and who acts on behalf of a person described by Paragraph (A); or

(2) requires a person who owns or controls property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

SECTION 25.004. Section 1902.152(b), Occupations Code, is amended to read as follows:

(b) An applicant must pay to the department an [~~a nonrefundable~~] examination fee at the time the application is submitted.

SECTION 25.005. Section 1902.162, Occupations Code, is amended to read as follows:

Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. The commission [~~commissioner~~] may adopt rules allowing waiver of a license requirement for an applicant who is licensed in another state that has license requirements substantially equivalent to those of this state.

SECTION 25.006. Section 1902.251, Occupations Code, is amended to read as follows:

Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An installer shall install or repair pumps under standards and procedures adopted by the commission [~~commissioner~~] with the advice of the council.

SECTION 25.007. Section 1902.252(b), Occupations Code, is amended to read as follows:

(b) To avoid injury or pollution, the installer shall repair or properly complete the well under standards and procedures adopted by the commission [~~commissioner~~].

SECTION 25.008. The following laws are repealed:

(1) Section 1902.001(2), Occupations Code;

(2) Section 1902.101, Occupations Code;

(3) Section 1902.155(b), Occupations Code;

(4) Section 1902.156, Occupations Code;

(5) Section 1902.157, Occupations Code;

(6) Section 1902.160, Occupations Code;

(7) Section 1902.204, Occupations Code; and

(8) Subchapters G and H, Chapter 1902, Occupations Code.

ARTICLE 26. WEATHER MODIFICATION

SECTION 26.001. Section 1.01, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended by amending Subdivision (1) and adding Subdivision (2-a) to read as follows:

(1) "Commission" [~~"Commissioner"~~] has the meaning assigned by Section 51.001, Occupations Code.

(2-a) "Executive director" means the executive director of the department.

SECTION 26.002. Article 1, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended by adding Section 1.02 to read as follows:

Sec. 1.02. APPLICABILITY OF OTHER LAW. Sections 51.404 and

51.405, Occupations Code, do not apply to this article.

SECTION 26.003. Section 1.11, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.11. RULES. The commission [~~department~~] may adopt rules necessary to:

(1) exercise the powers and perform the duties under this article;

(2) establish procedures and conditions for the issuance of licenses and permits under this article; and

(3) establish standards and instructions to govern the carrying out of research or projects in weather modification and control that the commission [~~department~~] considers necessary or desirable to minimize danger to health or property.

SECTION 26.004. Section 1.13, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.13. ADVISORY COMMITTEES. The commission [~~department~~] may establish advisory committees to advise the commission [~~department~~] and to make recommendations to the commission [~~department~~] concerning legislation, policies, administration, research, and other matters related to the department's duties, powers, or functions under this article. If the commission establishes an advisory committee under this section, the presiding officer of the commission, with the commission's approval, shall appoint a member of the committee to serve as the presiding officer of the committee for a two-year term.

SECTION 26.005. Section 1.16, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.16. INTERSTATE COMPACTS. The commission [~~commissioner~~] may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control.

SECTION 26.006. Section 1.18(b), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The department with approval of the commission [~~commissioner~~] may conduct and may contract for research and development activities relating to the purposes of this section.

SECTION 26.007. Section 1.31, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.31. LICENSE AND PERMIT REQUIRED. Except as provided by rule of the commission [~~department~~] under Section 1.32 of this article, a person may not engage in activities for weather modification and control:

(1) without a weather modification license and weather modification permit issued by the department; or

(2) in violation of any term or condition of the license or permit.

SECTION 26.008. Section 1.32, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.32. EXEMPTIONS. (a) The commission [~~department~~] by rule, to the extent it considers exemptions practical, shall provide for exempting the following activities from the license and permit requirements of this article:

(1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;

(2) laboratory research and experiments;

(3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and

(4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail.

(b) The commission [~~department~~] by rule may modify or revoke an exemption.

SECTION 26.009. Section 1.41(v), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

(v) The commission [~~department~~] by rule shall define hail suppression as used in this section, using the most current scientifically accepted technological concepts.

SECTION 26.010. Section 1.64, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.64. PROCEDURES. The commission [~~department~~] by rule shall establish procedures for public notice and any public hearing under this subchapter.

SECTION 26.011. Section 1.65, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.65. HEARINGS. A hearing under this article [~~subchapter~~] shall be conducted in accordance with the hearing rules adopted by the commission [~~department~~] and the applicable provisions of Chapters 51, Occupations Code, and [~~Chapter~~] 2001, Government Code.

SECTION 26.012. Section 1.66, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.66. CONSENT. If a permit holder or license holder requests or consents to the revocation or suspension of the permit or license, the commission [~~commissioner~~] may revoke or suspend the permit or license without a hearing.

SECTION 26.013. The following laws are repealed:

(1) Section 1.34, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes);

(2) Section 1.38, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes); and

(3) Section 1.68, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes).

ARTICLE 27. CONFORMING AMENDMENTS RELATED TO CERTAIN PROGRAMS TRANSFERRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 27.001. The heading to Chapter 37, Water Code, is amended to read as follows:

CHAPTER 37. OCCUPATIONAL LICENSING AND REGISTRATION PROGRAMS ADMINISTERED BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 27.002. Section 37.002, Water Code, is amended to read as follows:

Sec. 37.002. RULES. The commission shall adopt any rules necessary to:

(1) establish occupational licenses and registrations prescribed by Sections 26.0301 and [~~,~~] 26.3573 [~~, 26.452, 26.456, and 34.007~~] of this code and Sections 341.033, 341.034(a) and (b) [~~341.034~~], 361.027, and 366.071, Health and Safety Code;

(2) establish classes and terms of occupational licenses and registrations; and

(3) administer the provisions of this chapter and other laws governing occupational licenses and registrations under the commission's jurisdiction.

SECTION 27.003. Section 37.003, Water Code, is amended to read as follows:

Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person may not engage in a business, occupation, or profession described by Section 26.0301 or [~~,~~] 26.3573 [~~, 26.452, 26.456, or 34.007~~] of this code or Section 341.033, 341.034(a) or (b) [~~341.034~~], 361.027, 366.014, or 366.071, Health and Safety Code, unless the person holds the appropriate license or registration issued by the commission.

SECTION 27.004. Subtitle F, Title 2, Water Code, is amended

by adding Chapter 38 to read as follows:

CHAPTER 38. OCCUPATIONAL LICENSING PROGRAMS ADMINISTERED BY TEXAS DEPARTMENT OF LICENSING AND REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 38.001. DEFINITIONS. In this chapter, terms have the meanings assigned by Section 51.001, Occupations Code.

[Sections 38.002-38.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 38.051. ADMINISTRATION. The department shall administer this chapter.

Sec. 38.052. RULES. The commission shall adopt any rules necessary to:

(1) establish occupational licenses prescribed by Sections 26.452 and 26.456 of this code and Sections 341.034(c), (d), and (e), Health and Safety Code; and

(2) establish classes and terms of occupational licenses.

Sec. 38.053. CONTRACTS. The department may contract with persons to provide services required by this chapter. The department may authorize contractors to collect reasonable fees for the services provided.

Sec. 38.054. COMPLIANCE INFORMATION. In administering this chapter, the department may require a person to provide information about any other occupational license held by the person, including:

(1) the state in which the license was issued;

(2) the current status of the license; and

(3) whether the license was ever denied, suspended,

revoked, surrendered, or withdrawn.

Sec. 38.055. ROSTER OF LICENSE HOLDERS. The department shall maintain and make available to the public a roster of persons who hold licenses issued under this chapter.

[Sections 38.056-38.100 reserved for expansion]

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 38.101. LICENSE REQUIRED. A person may not engage in a business, occupation, or profession described by Section 26.452 or 26.456 of this code or Section 341.034(c), (d), or (e), Health and Safety Code, unless the person holds the appropriate license.

Sec. 38.102. QUALIFICATIONS. The commission may establish qualifications for each license issued under this chapter.

Sec. 38.103. ISSUANCE AND DENIAL OF LICENSES. (a) The commission shall establish requirements and uniform procedures for issuing licenses under this chapter.

(b) After notice and hearing, the commission may deny an application for a license by an applicant who:

(1) has a record in the preceding five years of continuing violations of statutes or rules adopted under statutes;

(2) has engaged in fraud or deceit in obtaining or applying for a license;

(3) has demonstrated gross negligence, incompetence, or misconduct in the performance of activities authorized by a license;

(4) made an intentional misstatement or misrepresentation of fact in information required to be maintained or submitted to the commission by the license holder;

(5) failed to keep and transmit records as required by a statute or a rule adopted under a statute; or

(6) at the time the application is submitted, is indebted to the state for a fee, penalty, or tax imposed by a statute or a rule adopted under a statute.

Sec. 38.104. RENEWAL OF LICENSE. The commission shall establish requirements and uniform procedures for renewing licenses.

Sec. 38.105. LICENSING EXAMINATIONS. (a) The department shall prescribe the content of licensing examinations. The department shall base the examinations on laws, rules, job duties, and standards relating to licenses issued under this chapter.

(b) The department shall determine the location and frequency of examinations.

(c) The department shall ensure that an otherwise qualified person with a physical, mental, or developmental disability is provided with a reasonable opportunity to take a licensing examination.

ARTICLE 28. GENERAL CONFORMING AMENDMENTS

SECTION 28.001. Section 57.044, Government Code, is amended to read as follows:

Sec. 57.044. COURT INTERPRETER LICENSE. To qualify for a court interpreter license under this subchapter, an individual must apply on a form prescribed by the executive director [~~commissioner~~] and demonstrate, in the manner required by the executive director [~~commissioner~~], reasonable proficiency in interpreting English and court proceedings for individuals who can hear but who do not

comprehend English or communicate in English.

SECTION 28.002. Sections 57.046(a) and (c), Government Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall prepare examinations under this subchapter that test an applicant's knowledge, skill, and efficiency in interpreting under this subchapter.

(c) Examinations shall be offered in the state at least twice a year at times and places designated by the executive director [~~commissioner~~].

SECTION 28.003. The heading to Section 57.047, Government Code, is amended to read as follows:

Sec. 57.047. [~~COMMISSIONER AND~~] DEPARTMENT DUTIES; INSPECTIONS.

SECTION 28.004. Section 57.047(a), Government Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall enforce this subchapter.

SECTION 28.005. Section 754.020, Health and Safety Code, is amended to read as follows:

Sec. 754.020. DEPOSIT OF FEES. Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the executive director [~~commissioner~~] only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter.

SECTION 28.006. Section 754.021, Health and Safety Code, is amended to read as follows:

Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. The executive director [~~commissioner~~] may:

(1) compile a list of ASME-QEI-1 certified inspectors who are registered with the department to perform an inspection under this subchapter; and

(2) employ personnel as necessary to enforce this subchapter.

SECTION 28.007. Section 754.022, Health and Safety Code, is amended to read as follows:

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the executive director [~~commissioner~~] learns of a situation of noncompliance under Section 754.019, the executive director [~~commissioner~~] shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.

SECTION 28.008. Sections 755.023(a), (c), and (d), Health and Safety Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall appoint a chief inspector of boilers to administer the boiler program. The chief inspector must:

(1) be a resident of this state and a citizen of the United States;

(2) have at least five years' experience in the construction, installation, inspection, operation, maintenance, or repair of boilers; and

(3) pass a written examination that demonstrates the

necessary ability to judge the safety of boilers.

(c) As needed, the executive director [~~commissioner~~] shall appoint persons with qualifications similar to those of the chief inspector to serve as deputy inspectors.

(d) The executive director [~~commissioner~~] may employ clerical assistants as necessary to carry out this chapter.

SECTION 28.009. Sections 755.024(a), (b), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) To be an authorized inspector, a person must obtain a commission as a boiler inspector from the executive director [~~commissioner~~] and must be continuously employed by an inspection agency.

(b) The executive director [~~commissioner~~], by written examination, shall determine the qualifications of an applicant for a commission to be an authorized inspector.

(f) After proper investigation, the executive director [~~commissioner~~] may accept an inspection commission issued to a person by any other jurisdiction that has a written examination equal to that of this state.

(g) For good cause, the executive director [~~commissioner~~] may rescind a commission issued by this state.

SECTION 28.010. Sections 755.025(a), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall require each boiler to be inspected internally and externally at the time of initial installation and at subsequent intervals as provided by this section. The executive director [~~commissioner~~] may provide

that the inspection be performed by any inspector.

(f) The executive director [~~commissioner~~] shall designate the manner of inspection for nuclear boilers, the form of the inspection report, and the information to be reported. The executive director [~~commissioner~~] and the owner of a nuclear boiler shall establish the intervals of inspection for the boiler.

(g) The executive director [~~commissioner~~] may authorize the inspection of a boiler at any reasonable time if the executive director [~~commissioner~~] determines that the boiler may be in an unsafe condition. The executive director [~~commissioner~~] shall notify the inspection agency that insures that boiler and request the authorized inspector employed by that agency to participate with the chief inspector or a deputy inspector in a joint inspection of the boiler not later than the 20th day after the date on which the executive director [~~commissioner~~] notifies the inspection agency. An additional charge may not be made for the joint inspection.

SECTION 28.011. Sections 755.026(a), (c), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) With the approval of the executive director [~~commissioner~~] and the inspection agency that has jurisdiction for the power boiler, the interval between internal inspections may be extended to a period not exceeding a total of 48 months. For other unfired steam boilers or steam collection or liberation drums of process steam generators, the inspection interval may be extended to the next scheduled downtime of the boiler, but not exceeding a total of 84 months.

(c) The executive director [~~commissioner~~] and the

inspection agency may grant an additional extension for a period not exceeding 120 days to the inspection interval covered by the boiler's certificate of operation on receipt of a request for extension stating that an emergency exists. Before the extension may be granted, the inspection agency must make an external inspection of the boiler, and the conditions imposed under Subsection (b) must be met.

(d) If an extended period between internal inspections is approved by the executive director [~~commissioner~~] and the inspection agency, the executive director [~~commissioner~~] shall issue a new certificate of operation for the extended period of operation.

(e) If the interval between internal inspections of a gas fired boiler is extended under Subsection (a), the executive director [~~commissioner~~] and inspection agency shall require that an inspection of the gas regulator or pressure reducing valve that services the boiler be performed as part of the next regularly scheduled external certificate inspection of the boiler to verify proper venting of gas to a safe point of discharge.

SECTION 28.012. Sections 755.027(a) and (c), Health and Safety Code, are amended to read as follows:

(a) Not later than the 30th day after the date on which a certificate inspection is performed by an authorized inspector, the inspection agency employing the authorized inspector shall file a report with the executive director [~~commissioner~~] in the manner specified by the executive director [~~department~~].

(c) An inspection agency shall notify the executive

director [~~commissioner~~] in writing of the cancellation or expiration of any insurance policy issued by that agency to cover a boiler located in this state, and shall include in the notice the reason for the cancellation or expiration. The notice must state the date the policy was issued and the date on which the cancellation or expiration takes effect.

SECTION 28.013. Section 755.028, Health and Safety Code, is amended to read as follows:

Sec. 755.028. SPECIAL INSPECTIONS. The executive director [~~commissioner~~] may provide a special inspection service to the owners, operators, and manufacturers of boilers. The service may include surveys required for certification to construct, assemble, or repair boilers or pressure vessels.

SECTION 28.014. Section 755.029(a), Health and Safety Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue to the owner or operator of a boiler a certificate of operation for the boiler if after a certificate inspection:

(1) the boiler is found to be in a safe condition for operation; and

(2) the owner or operator has paid the fees assessed under Section 755.030.

SECTION 28.015. Section 755.042, Health and Safety Code, is amended to read as follows:

Sec. 755.042. PROSECUTION; INJUNCTION. (a) A prosecution may not be maintained if the issuance or renewal of a certificate of operation has been requested for a boiler but has not been acted on.

However, the executive director [~~commissioner~~] may petition a district court for an injunction to restrain the operation of the boiler until the condition restraining its use is corrected and a certificate of operation is issued if the executive director [~~commissioner~~] determines that the operation of the boiler without a certificate of operation constitutes a serious menace to the life and safety of the persons in or about the premises. The attorney general or the district or county attorney may bring the suit, and venue is in the county in which the boiler is located or in Travis County. It is not necessary for the prosecutor to verify the pleadings or for the state to execute a bond.

(b) The executive director's [~~commissioner's~~] affidavit that a certificate of operation or an application for a certificate does not exist for a boiler, and the affidavit of the chief inspector or a deputy inspector that the operation of the boiler constitutes a menace to the life and safety of persons in or about the premises, are sufficient proof to warrant the immediate issuance of a temporary restraining order.

SECTION 28.016. Section 91.003(a), Labor Code, is amended to read as follows:

(a) Each state agency that in performing duties under other law affects the regulation of staff leasing services shall cooperate with the department[~~, the commissioner,~~] and other state agencies as necessary to implement and enforce this chapter.

SECTION 28.017. Section 91.015(c), Labor Code, is amended to read as follows:

(c) Before denying a license application, the department

shall provide written notice to an applicant specifying the reasons for the denial. The department shall provide the applicant at least 30 days after the date of the notice to address the reasons for the denial. For good cause and on a showing of a good faith effort to remedy the reasons for the denial, the executive director [~~commissioner~~] may grant an additional 30 days to remedy the reasons for denial.

SECTION 28.018. Section 91.048, Labor Code, is amended to read as follows:

Sec. 91.048. REQUIRED INFORMATION. Each license holder shall:

(1) maintain adequate books and records regarding the license holder's duties and responsibilities;

(2) maintain and make available at all times to the executive director [~~commissioner~~] the following information, which shall be treated as proprietary and confidential and is exempt from disclosure to persons other than other governmental agencies having a reasonable, legitimate purpose for obtaining the information:

(A) the correct name, address, and telephone number of each client company;

(B) each client company contract; and

(C) a listing by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget, of each client company;

(3) notify the department of any addition or deletion of a controlling person as listed on the license application or

renewal form by providing the name of the person not later than the 45th day after the date on which the person is added or deleted as a controlling person; and

(4) provide a biographical history to the department in connection with the addition of a new controlling person.

SECTION 28.019. Section 91.062(a), Labor Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] may notify the attorney general of a violation of this chapter. The attorney general may apply to a district court in Travis County for permission to file for quo warranto relief, injunctive relief, or both.

SECTION 28.020. Section 92.014(a), Labor Code, is amended to read as follows:

(a) The department shall issue a temporary common worker employer license to a person who meets the application requirements established by the executive director [~~commissioner~~] and pays the application and registration fees set by the commission.

SECTION 28.021. Section 92.031(a), Labor Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally violates:

(1) this chapter;

(2) a rule adopted under this chapter; or

(3) an administrative order adopted [~~by the commissioner~~] under this chapter.

SECTION 28.022. Sections 1152.154(a) and (c), Occupations

Code, are amended to read as follows:

(a) An applicant for registration must file an application with the department on a printed form prescribed by the executive director [~~commissioner~~].

(c) The department shall refund the registration fee if the executive director [~~commissioner~~] does not approve the application.

SECTION 28.023. Section 1152.156, Occupations Code, is amended to read as follows:

Sec. 1152.156. ELIGIBILITY TO REGISTER AS PROPERTY TAX CONSULTANT. (a) In addition to satisfying the requirements of Section 1152.155, an applicant for registration as a property tax consultant must:

(1) complete at least 15 classroom hours of educational courses approved by the executive director [~~commissioner~~], including at least four hours of instruction on laws and legal issues in this state related to property tax consulting services; or

(2) if the person is eligible for registration under Section 1152.155(b), submit to the commission evidence that the applicant has completed at least four classroom hours of educational programs or courses on the laws and legal issues in this state related to property tax consulting services.

(b) The executive director [~~commissioner~~] may give appropriate credit to an initial applicant for:

(1) educational courses on principles of law related to property tax consulting services completed by the applicant not

more than two years before the date of application; and

(2) educational programs or courses completed by the applicant on:

(A) property taxation;

(B) the property tax system;

(C) property tax administration;

(D) ethical standards; or

(E) general principles of appraisal, accounting, or law as they relate to property tax consulting services.

SECTION 28.024. Section 1152.159, Occupations Code, is amended to read as follows:

Sec. 1152.159. CREDITS FOR SENIOR PROPERTY TAX CONSULTANT APPLICANTS. (a) The executive director [~~commissioner~~] shall grant credit to an applicant for registration as a senior property tax consultant as follows:

(1) two credits for each year the applicant completed at an institution of higher education that meets program and accreditation standards comparable to those for public institutions of higher education as determined by the Texas Higher Education Coordinating Board, not to exceed six credits;

(2) four credits to an applicant who holds a bachelor's degree or equivalent from an institution of higher education described by Subdivision (1); and

(3) one credit for each year in excess of five years that the applicant's primary occupation involved the performance or supervision of property tax consulting services or property appraisal, assessment, or taxation, not to exceed 10 credits.

(b) The executive director [~~commissioner~~] may grant additional credits to an applicant for registration as a senior property tax consultant for:

(1) successful completion of educational programs or courses on:

(A) property taxation;

(B) the property tax system;

(C) property tax administration;

(D) ethical standards; or

(E) general principles of appraisal, accounting, and law as they relate to property tax consulting services;

(2) completion of other educational programs or courses; or

(3) advanced or postgraduate educational achievement, occupational experience, professional licenses, or professional designations obtained from recognized associations, institutes, or organizations.

(c) The executive director [~~commissioner~~] may assign not less than one credit or more than five credits to a program or course described by Subsection (b)(1). In determining the amount of credit for the program or course, the executive director [~~commissioner~~] shall consider:

(1) the nature of the program or course;

(2) the number of actual instructional hours in the program or course;

(3) whether an examination is required for successful completion of the program or course; and

(4) other factors the executive director [~~commissioner~~] determines appropriate.

SECTION 28.025. Section 1152.162, Occupations Code, is amended to read as follows:

Sec. 1152.162. ISSUANCE OF CERTIFICATE OF REGISTRATION. (a) The executive director [~~commissioner~~] shall act on an initial application for registration filed under Section 1152.154 not later than the 31st day after the date the department receives the application.

(b) The executive director [~~commissioner~~] shall issue to an applicant who qualifies for registration the appropriate certificate of registration.

SECTION 28.026. Section 1202.055, Occupations Code, is amended to read as follows:

Sec. 1202.055. SECRETARY; PERSONNEL. The executive director [~~commissioner~~] shall:

(1) act as secretary of the council; and

(2) provide personnel from the department necessary to perform staff functions for the council.

SECTION 28.027. Sections 1202.105(b) and (c), Occupations Code, are amended to read as follows:

(b) The executive director [~~commissioner~~] shall recommend qualified third-party inspectors and design review agencies to the council.

(c) The executive director [~~commissioner~~] shall publish a list of all approved inspectors and design review agencies.

SECTION 28.028. Section 1302.002(12), Occupations Code, is

amended to conform to Section 1, Chapter 790, Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

(12) "Mechanical integrity" means the condition of a product, a system, or equipment installed in accordance with its intended purpose and according to:

(A) standards at least as strict as the standards provided by:

(i) the Uniform Mechanical Code [~~published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, or their successor organizations~~]; and [~~or~~]

(ii) the International [~~Standard~~] Mechanical Code [~~published by the Southern Building Code Congress International, Inc., or its successor organization~~];

(B) all other applicable codes; and

(C) the manufacturer's specifications.

SECTION 28.029. Section 1302.102, Occupations Code, is amended to read as follows:

Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive director [~~commissioner~~] shall set insurance requirements for a license holder under this chapter.

(b) The executive director [~~commissioner~~] may waive the insurance requirements for a license holder who does not engage in air conditioning and refrigeration contracting for the public.

SECTION 28.030. Section 1302.151, Occupations Code, is amended to read as follows:

Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The

executive director [~~commissioner~~] shall prepare information of consumer interest describing:

(1) the functions performed by the executive director [~~commissioner~~] under this chapter; and

(2) the rights of a consumer affected by this chapter.

(b) The information must describe the procedure by which a consumer complaint is filed with and resolved by the executive director [~~commissioner~~].

(c) The executive director [~~commissioner~~] shall make the information available to the public.

SECTION 28.031. Section 1302.203, Occupations Code, is amended to read as follows:

Sec. 1302.203. EX OFFICIO MEMBERS. The executive director [~~commissioner~~] and the chief administrator of this chapter serve as ex officio, nonvoting members of the advisory board.

SECTION 28.032. Section 1302.253(a), Occupations Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a Class A or Class B air conditioning and refrigeration contractor license.

SECTION 28.033. Sections 1302.256(a) and (c), Occupations Code, are amended to read as follows:

(a) An applicant for a license must submit a verified application on a form prescribed by the executive director [~~commissioner~~].

(c) The application must be accompanied by:

(1) a statement containing evidence satisfactory to

the executive director [~~commissioner~~] of the applicant's practical experience required by Section 1302.255(a)(2); and

(2) the examination fee.

SECTION 28.034. Section 1302.257, Occupations Code, is amended to read as follows:

Sec. 1302.257. EXAMINATIONS. (a) The executive director [~~commissioner~~] shall prescribe:

(1) a separate examination for each class of license; and

(2) within each class of license, a separate examination for:

(A) an environmental air conditioning endorsement; and

(B) a commercial refrigeration and process cooling or heating endorsement.

(b) The executive director [~~commissioner~~] shall prescribe the method and content of an examination administered under this chapter and shall set compliance requirements for the examination. To obtain an endorsement, an applicant must pass the examination for the endorsement.

(c) The examination shall be offered on a monthly basis or more frequently as determined by the executive director [~~commissioner~~].

(d) The examination shall be offered at locations within the state as determined by the executive director [~~commissioner~~]. The examination may be offered by computer at locations within the state as determined by the executive director [~~commissioner~~].

SECTION 28.035. Section 1302.260(a), Occupations Code, is amended to read as follows:

(a) On payment of the license fee, the executive director [~~commissioner~~] shall issue an air conditioning and refrigeration contractor license to an applicant who:

(1) meets the requirements of this subchapter;

(2) provides evidence of insurance coverage required by the executive director [~~commissioner~~] in accordance with this chapter; and

(3) passes the applicable examination.

SECTION 28.036. Section 1302.303(b), Occupations Code, is amended to read as follows:

(b) The municipality shall report a violation of the ordinance to the executive director [~~commissioner~~] not later than the 10th day after the date the municipality acts to enforce the ordinance.

SECTION 28.037. Section 1302.451, Occupations Code, is amended to read as follows:

Sec. 1302.451. EMERGENCY AND CEASE AND DESIST ORDERS. (a) The executive director [~~commissioner~~] may issue an emergency order as necessary to enforce this chapter if the executive director [~~commissioner~~] determines that an emergency exists requiring immediate action to protect the public health and safety.

(b) The executive director [~~commissioner~~] may issue the emergency order without notice and hearing or with any notice and hearing the executive director [~~commissioner~~] considers practicable under the circumstances. The executive director

[~~commissioner~~] shall set the time and place for a hearing to affirm, modify, or set aside an emergency order that was issued without a hearing.

(c) The executive director [~~commissioner~~] may issue a cease and desist order.

SECTION 28.038. Section 1304.007, Occupations Code, is amended to read as follows:

Sec. 1304.007. GENERAL INVESTIGATIVE POWER OF EXECUTIVE DIRECTOR [~~COMMISSIONER~~]. (a) The executive director [~~commissioner~~] may investigate a provider, administrator, or other person as necessary to enforce this chapter and protect service contract holders in this state.

(b) On request of the executive director [~~commissioner~~], a provider shall make the records required by Section 1304.155 available to the executive director [~~commissioner~~] as necessary to enable the executive director [~~commissioner~~] to reasonably determine compliance with this chapter.

SECTION 28.039. Section 1304.102, Occupations Code, is amended to read as follows:

Sec. 1304.102. APPLICATION FOR REGISTRATION. (a) An applicant for registration must submit an application to the executive director [~~commissioner~~].

(b) The application must:

(1) be in the form prescribed by the executive director [~~commissioner~~]; and

(2) include evidence satisfactory to the executive director [~~commissioner~~] of compliance with the applicable

financial security requirements prescribed by Section 1304.151.

SECTION 28.040. Section 1304.104, Occupations Code, is amended to read as follows:

Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE CONTRACTS SOLD. Information concerning the number of service contracts sold by a provider that is submitted under Section 1304.103:

(1) is a trade secret to which Section 552.110, Government Code, applies; and

(2) may be used only by the executive director [~~commissioner~~] and the department in developing the tiered fee schedule under Section 1304.103.

SECTION 28.041. Section 1304.152(b), Occupations Code, is amended to read as follows:

(b) The insurer may not cancel the policy until the insurer delivers to the provider a written notice of cancellation that complies with the notice requirements prescribed by Articles 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an insurance policy under those articles. The provider shall forward a copy of the cancellation notice to the executive director [~~commissioner~~] not later than the 15th business day after the date the notice is delivered to the provider. Cancellation of the policy does not reduce the insurer's responsibility for a service contract issued by the provider and insured under the policy before the date of the cancellation.

SECTION 28.042. Sections 1304.155(b) and (d), Occupations Code, are amended to read as follows:

(b) The records required by this section may be maintained in an electronic medium or through other recordkeeping technology. If a record is not in a hard copy, the provider must be able to reformat the record into a legible hard copy at the request of the executive director [~~commissioner~~].

(d) A provider that discontinues business in this state shall retain its records until the provider furnishes the executive director [~~commissioner~~] with proof satisfactory to the executive director [~~commissioner~~] that the provider has discharged all obligations to service contract holders in this state.

SECTION 28.043. Section 1304.202, Occupations Code, is amended to read as follows:

Sec. 1304.202. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The executive director [~~commissioner~~] may institute an action under Section 51.352 for injunctive relief to restrain a violation or a threatened violation of this chapter or an order issued or rule adopted under this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the executive director [~~commissioner~~] may institute an action for a civil penalty as provided by Section 51.352. The amount of a civil penalty assessed under this section may not exceed:

(1) $2,500 for each violation; or

(2) $50,000 in the aggregate for all violations of a similar nature.

SECTION 28.044. Section 1802.002, Occupations Code, is amended to read as follows:

Sec. 1802.002. APPLICABILITY. This chapter does not apply to:

(1) a sale conducted by order of a United States court under Title 11, United States Code;

(2) a sale conducted by an employee of the United States, this state, or a political subdivision of this state in the course and scope of employment;

(3) a sale conducted by a charitable or nonprofit organization, if the auctioneer receives no compensation;

(4) a sale conducted by an individual of the individual's property if the individual is not engaged in the business of selling property as an auctioneer on a recurring basis;

(5) a foreclosure sale of real property personally conducted by a trustee under a deed of trust;

(6) a foreclosure sale of personal property personally conducted by:

(A) a person who holds a security interest in the property, including a mortgage; or

(B) an employee or agent of a person described by Paragraph (A) acting in the course and scope of employment, if:

(i) the employee or agent is not otherwise engaged in the auction business; and

(ii) all property for sale in the auction is subject to a security agreement;

(7) a sale conducted by sealed bid;

(8) an auction conducted only for student training purposes as part of a course of study approved by the <u>executive</u>

director [~~commissioner~~] for auctioneers;

(9) an auction conducted by a posted stockyard or market agency as defined by the federal Packers and Stockyards Act (7 U.S.C. Section 181 et seq.), as amended;

(10) an auction of livestock conducted by a nonprofit livestock trade association chartered in this state, if the auction involves only the sale of livestock owned by members of the trade association; or

(11) an auction conducted by a charitable or nonprofit organization chartered in this state, if the auction:

(A) is part of a fair that is organized under state, county, or municipal authority; and

(B) involves only the sale of property owned by the organization's members.

SECTION 28.045. Section 1802.051(a), Occupations Code, is amended to read as follows:

(a) A person may not act as an auctioneer or associate auctioneer in an auction held in this state unless the person is an individual who holds a license issued by the executive director [~~commissioner~~] under this chapter.

SECTION 28.046. Section 1802.054, Occupations Code, is amended to read as follows:

Sec. 1802.054. APPLICATION FOR LICENSE. An applicant for a license must apply to the executive director [~~commissioner~~] on a form provided by the executive director [~~commissioner~~] that establishes the applicant's eligibility for the license. The application must be accompanied by:

(1) the required bond;

(2) the required license fee; and

(3) either:

(A) the permit number of a sales tax permit issued to the applicant by the comptroller under Subchapter F, Chapter 151, Tax Code; or

(B) proof of exemption from the tax permit requirement under Chapter 151, Tax Code.

SECTION 28.047. Sections 1802.055(a) and (b), Occupations Code, are amended to read as follows:

(a) An individual who establishes that the individual is eligible for an auctioneer's license may apply to the executive director [~~commissioner~~] to take the license examination. The application must be accompanied by the examination fee.

(b) On receipt of an examination application and fee, the executive director [~~commissioner~~] shall furnish the applicant with:

(1) study materials and references on which the examination will be based; and

(2) a schedule specifying the dates and places the examination will be offered.

SECTION 28.048. Sections 1802.056(b) and (c), Occupations Code, are amended to read as follows:

(b) The license examination shall be offered at least four times each year at locations designated by the executive director [~~commissioner~~].

(c) The executive director [~~commissioner~~] shall prepare:

(1) examinations for an auctioneer's license; and

(2) study and reference materials on which the examinations are based.

SECTION 28.049. Section 1802.152(a), Occupations Code, is amended to read as follows:

(a) The department is the manager of the fund and shall:

(1) administer the fund without appropriation;

(2) maintain books and records as required by the executive director [~~commissioner~~];

(3) appear at hearings or judicial proceedings; and

(4) invest and reinvest the fund's assets as instructed by the executive director [~~commissioner~~].

SECTION 28.050. Section 1802.155(b), Occupations Code, is amended to read as follows:

(b) If the fund contains insufficient assets to pay the consumer:

(1) the department shall record the time and date an order for payment to a consumer was received; and

(2) the executive director [~~commissioner~~] shall pay consumers for whom an order is recorded under Subdivision (1) as funds become available in the order of the recorded time and date of the order.

SECTION 28.051. Section 1802.156, Occupations Code, is amended to read as follows:

Sec. 1802.156. EDUCATION EXPENDITURES PERMITTED. The executive director [~~commissioner~~] may use amounts in excess of $250,000 in the fund to:

(1) advance education and research in the auctioneering profession for the benefit of license holders and to improve and increase the efficiency of the industry;

(2) underwrite educational seminars, training centers, and other educational projects for the use and benefit of license holders;

(3) sponsor, contract, and underwrite other educational and research projects that advance the auctioneering profession in this state; and

(4) cooperate with associations of auctioneers and other groups for the education and advancement of the auctioneering profession in this state.

SECTION 28.052. Sections 1802.205(a) and (b), Occupations Code, are amended to read as follows:

(a) If the department's determination under Section 1802.202 is not disputed by the auctioneer or the aggrieved party, the executive director [~~commissioner~~] shall pay the claim from the fund, subject to Section 1802.206.

(b) If a hearing is held on the department's determination, the executive director [~~commissioner~~] shall pay to the aggrieved party the amount of actual damages determined by the executive director [~~commissioner~~].

SECTION 28.053. Section 1802.206(a), Occupations Code, is amended to read as follows:

(a) The executive director [~~commissioner~~] may not pay a single aggrieved party more than $10,000.

SECTION 28.054. Section 1802.208, Occupations Code, is

amended to read as follows:

Sec. 1802.208. SUBROGATION. If the executive director [~~commissioner~~] pays a claim against an auctioneer, the department is subrogated to all rights of the aggrieved party against the auctioneer to the extent of the amount paid to the aggrieved party.

SECTION 28.055. Section 1901.051(b), Occupations Code, is amended to read as follows:

(b) The executive director [~~commissioner~~] shall issue licenses to applicants who qualify.

SECTION 28.056. Section 1901.151, Occupations Code, is amended to read as follows:

Sec. 1901.151. LICENSE REQUIRED. A person may not act or offer to act as a driller unless the person holds a license issued by the executive director [~~commissioner~~] under this chapter and rules adopted under this chapter.

SECTION 28.057. Section 1901.402, Occupations Code, is amended to read as follows:

Sec. 1901.402. INJUNCTION AND OTHER ENFORCEMENT PROVISIONS. (a) The executive director [~~commissioner~~] may bring an action to enjoin a person from violating this chapter.

(b) The executive director [~~commissioner~~] may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter.

SECTION 28.058. Section 1901.403, Occupations Code, is amended to read as follows:

Sec. 1901.403. VENUE. The executive director

[~~commissioner~~] may bring an action in:

(1) Travis County; or

(2) the county in which:

(A) the offending activity occurred; or

(B) the person engaging in the activity resides.

SECTION 28.059. Section 1901.404(b), Occupations Code, is amended to read as follows:

(b) At the request of the executive director [~~commissioner~~], the attorney general shall bring an action in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty, as authorized by this subchapter.

SECTION 28.060. Section 1902.151, Occupations Code, is amended to read as follows:

Sec. 1902.151. LICENSE REQUIRED. A person may not act or offer to act as an installer unless the person holds a license issued by the executive director [~~commissioner~~] under rules adopted under this chapter.

SECTION 28.061. Section 1902.402, Occupations Code, is amended to read as follows:

Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT PROVISIONS. (a) The executive director [~~commissioner~~] may bring an action to enjoin a person from violating this chapter.

(b) The executive director [~~commissioner~~] may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter.

SECTION 28.062. Section 1902.403, Occupations Code, is amended to read as follows:

Sec. 1902.403. VENUE. The executive director [~~commissioner~~] may bring an action in:

(1) Travis County; or

(2) the county in which:

(A) the offending activity occurred; or

(B) the person engaging in the activity resides.

SECTION 28.063. Section 1902.404(b), Occupations Code, is amended to read as follows:

(b) At the request of the executive director [~~commissioner~~], the attorney general shall bring an action in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty, as authorized by this subchapter.

SECTION 28.064. Section 2052.053, Occupations Code, is amended to read as follows:

Sec. 2052.053. INVESTIGATIVE AUTHORITY. (a) The executive director [~~commissioner~~] shall investigate allegations of activity that may violate this chapter.

(b) The executive director [~~commissioner~~] may enter, at a reasonable time, a place of business or an establishment in which activity alleged to violate this chapter may occur. The executive director [~~commissioner~~] is not required to give advance notice before entering.

SECTION 28.065. Section 2052.102, Occupations Code, is amended to read as follows:

Sec. 2052.102. BOXING PROMOTER LICENSE APPLICATION REQUIREMENTS. (a) An applicant for a boxing promoter's license under this chapter must apply on a form furnished by the executive director [~~commissioner~~].

(b) An application must be accompanied by:

(1) a license fee in an amount set by the commission; and

(2) a surety bond:

(A) subject to approval by the executive director [~~commissioner~~]; and

(B) conditioned on the applicant's payment of the tax imposed under Section 2052.151.

(c) The executive director [~~commissioner~~] shall establish the amount of the surety bond required under Subsection (b). The bond amount may not be less than $300.

SECTION 28.066. Section 2052.108(a), Occupations Code, is amended to read as follows:

(a) An application for a license under Section 2052.107 must be made on a form furnished by the executive director [~~commissioner~~].

SECTION 28.067. Section 2052.110, Occupations Code, is amended to read as follows:

Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. The licensing and bonding requirements of this subchapter do not apply to:

(1) a boxing event in which the participants do not receive a money remuneration, purse, or prize for their

performances or services if the event is promoted, conducted, or maintained by:

(A) an educational institution;

(B) a law enforcement organization;

(C) a Texas National Guard Unit; or

(D) an amateur athletic organization recognized by the executive director [~~commissioner~~];

(2) a nonprofit amateur athletic association chartered under the law of this state, including a membership club affiliated with the association located within this state and recognized by the executive director [~~commissioner~~];

(3) an event conducted by a college, school, or university that is part of the institution's athletic program in which only students of different educational institutions participate; or

(4) an event in which only members of a troop, battery, company, or unit of the Texas National Guard or a law enforcement agency participate.

SECTION 28.068. Section 2052.111, Occupations Code, is amended to read as follows:

Sec. 2052.111. DENIAL OF APPLICATION. The executive director [~~commissioner~~] may deny an application for a license if:

(1) the applicant does not meet the qualifications for the license; or

(2) after conducting an investigation and a hearing, the executive director [~~commissioner~~] determines that the applicant has violated this chapter or a rule adopted under this

chapter.

SECTION 28.069. Section 2052.203(b), Occupations Code, is amended to read as follows:

(b) The elimination tournament boxing promoter of a local, regional, or championship elimination tournament is not required to require that each elimination tournament contestant wear headgear approved by the department if the promoter under department rules notifies the executive director [~~commissioner~~] of the decision not to use the approved headgear.

SECTION 28.070. Sections 2052.252(b) and (e), Occupations Code, are amended to read as follows:

(b) The event may take place only if the executive director [~~commissioner~~] approves the event not later than seven days before the date the event begins.

(e) The event is subject to the supervision of the executive director [~~commissioner~~].

SECTION 28.071. Section 2052.302, Occupations Code, is amended to read as follows:

Sec. 2052.302. FORFEITURE OF PURSE. The executive director [~~commissioner~~] may order a boxer or manager to forfeit to this state a purse in an amount of not more than $1,000 for violating this chapter or a rule adopted under this chapter.

SECTION 28.072. Sections 2052.304(a) and (b), Occupations Code, are amended to read as follows:

(a) A person may seek review of a decision or an order of the executive director [~~commissioner~~] under this chapter by filing a petition for review in a district court in Travis County not later

than the 30th day after the date on which the decision or order of the executive director [~~commissioner~~] is final if the person is:

(1) a party to an administrative hearing in which the decision or order is issued; and

(2) aggrieved by the decision or order.

(b) The filing of a petition for review under Subsection (a) does not stay the effect of the decision or order of the executive director [~~commissioner~~] that is the subject of the petition. The executive director [~~commissioner~~] or the district court in which the petition for review is filed may order a stay on appropriate terms.

SECTION 28.073. Section 2052.305, Occupations Code, is amended to read as follows:

Sec. 2052.305. SERVICE OF PROCESS. A petition for review filed under Section 2052.304 must be served on:

(1) the executive director [~~commissioner~~]; and

(2) all parties of record to a hearing before the executive director [~~commissioner~~] that relates to the matter for which the petition for review is filed.

SECTION 28.074. Section 2052.306(a), Occupations Code, is amended to read as follows:

(a) On receipt of a petition for review served under Section 2052.305, the executive director [~~commissioner~~], not later than the date on which the answer to the petition must be filed or the date on which the record is made available to the executive director [~~commissioner~~], whichever date is later, shall certify to the district court in which the petition is filed the record of the

proceedings to which the petition relates.

SECTION 28.075. Section 2052.307, Occupations Code, is amended to read as follows:

Sec. 2052.307. JUDICIAL REVIEW. (a) A district court reviewing a decision or an order of the executive director [~~commissioner~~] under this subchapter shall try the action without a jury in the same manner as a civil action, except that evidence is not admissible unless the evidence was presented at the hearing or noticed in the record of the hearing before the executive director [~~commissioner~~]. The petitioner has the burden of proof in the action.

(b) The court may:

(1) affirm the decision or order of the executive director [~~commissioner~~]; or

(2) remand the matter to the executive director [~~commissioner~~] for further proceedings.

SECTION 28.076. Section 2052.308, Occupations Code, is amended to read as follows:

Sec. 2052.308. APPEAL. (a) The petitioner or executive director [~~commissioner~~] may appeal a final judgment of a court conducting a review under this subchapter in the same manner as a civil action.

(b) The executive director [~~commissioner~~] is not required to file an appeal bond.

SECTION 28.077. Section 2151.101(a), Occupations Code, is amended to read as follows:

(a) A person may not operate an amusement ride unless the

person:

(1) has had the amusement ride inspected at least once a year by an insurer or a person with whom the insurer has contracted;

(2) obtains a written certificate from the insurer or person with whom the insurer has contracted stating that the amusement ride:

(A) has been inspected;

(B) meets the standards for insurance coverage; and

(C) is covered by the insurance required by Subdivision (3);

(3) has an insurance policy currently in effect written by an insurance company authorized to do business in this state or by a surplus lines insurer, as defined by Chapter 981 [~~Article 1.14-2~~], Insurance Code, or has an independently procured policy subject to Chapter 101 [~~Article 1.14-1~~], Insurance Code, insuring the owner or operator against liability for injury to persons arising out of the use of the amusement ride in an amount of not less than:

(A) $100,000 per occurrence with a $300,000 annual aggregate for Class A amusement rides; and

(B) $1,000,000 per occurrence for Class B amusement rides;

(4) files with the executive director [~~commissioner~~], as required by this chapter, the inspection certificate and the insurance policy or a photocopy of the certificate or policy

authorized by the executive director [~~commissioner~~]; and

(5) files with each sponsor, lessor, landowner, or other person responsible for the amusement ride being offered for use by the public a photocopy of the inspection certificate and the insurance policy required by this subsection.

SECTION 28.078. Section 2501.053(a), Occupations Code, is amended to read as follows:

(a) Not later than the 30th day before the date a personnel service begins operating in this state, the owner of the service must file notice with the executive director [~~commissioner~~].

SECTION 28.079. Section 2501.055(a), Occupations Code, is amended to read as follows:

(a) On receipt of a notice filed under Section 2501.053, the executive director [~~commissioner~~] shall issue to the owner a certificate of authority to do business as a personnel service not later than the 15th day after the date the notice is filed if the owner:

(1) pays the filing fee required for the certificate; and

(2) complies with the requirements of Section 2501.054.

SECTION 28.080. Section 2501.057, Occupations Code, is amended to read as follows:

Sec. 2501.057. RENEWAL OF CERTIFICATE. The executive director [~~commissioner~~] shall issue a renewal of a certificate of authority on the receipt of:

(1) a renewal notice from the owner that contains the

information required by Section 2501.053;

(2) a renewal fee; and

(3) security that complies with Section 2501.054.

SECTION 28.081. The heading to Subchapter D, Chapter 2501, Occupations Code, is amended to read as follows:

SUBCHAPTER D. ENFORCEMENT [~~BY COMMISSIONER~~]

SECTION 28.082. Section 2501.151, Occupations Code, is amended to read as follows:

Sec. 2501.151. ENFORCEMENT. (a) The executive director [~~commissioner~~] shall enforce Section 2501.102 and may investigate a personnel service as necessary to enforce that section.

(b) The attorney general shall assist the executive director [~~commissioner~~] on request.

SECTION 28.083. Section 2501.253(a), Occupations Code, is amended to read as follows:

(a) In addition to the amount awarded to a complainant under Section 2501.154(b), the executive director [~~commissioner~~] may impose on the personnel service an administrative penalty equal to two times the amount awarded under that subsection. A penalty collected under this section shall be deposited in the state treasury.

SECTION 28.084. Sections 2502.052(a) and (b), Occupations Code, are amended to read as follows:

(a) To obtain a certificate of authority, an owner must:

(1) file with the executive director [~~commissioner~~] a sworn application accompanied by the required application fee; and

(2) file with the department security that complies

with Section 2502.053.

(b) The application must be in the form prescribed by the executive director [~~commissioner~~] and include:

(1) the address of the principal location of the career counseling service;

(2) the assumed name, if any, under which the career counseling service will operate;

(3) the name and address of each owner; and

(4) a statement that the owner has read and is familiar with this chapter.

SECTION 28.085. Section 2502.053(a), Occupations Code, is amended to read as follows:

(a) Before the executive director [~~commissioner~~] may issue a certificate of authority to an owner, the owner must file with the department a bond in the amount of $10,000 that is:

(1) executed by a surety company authorized to do business in this state;

(2) payable to the state; and

(3) conditioned on the faithful performance of the owner's obligations under this chapter.

SECTION 28.086. Sections 2502.054(a) and (b), Occupations Code, are amended to read as follows:

(a) The executive director [~~commissioner~~] shall issue a certificate of authority to do business as a career counseling service to an applicant who meets the requirements of this subchapter.

(b) The executive director [~~commissioner~~] shall process a

certificate application not later than the 15th day after the date the application is filed.

SECTION 28.087. Section 2502.251, Occupations Code, is amended to read as follows:

Sec. 2502.251. ENFORCEMENT. (a) The executive director [~~commissioner~~] shall enforce this chapter and may investigate a career counseling service as necessary.

(b) The attorney general shall assist the executive director [~~commissioner~~] on request.

SECTION 28.088. Section 2502.301, Occupations Code, is amended to read as follows:

Sec. 2502.301. ADMINISTRATIVE PENALTY. In addition to the amount awarded to a complainant under Section 2502.254(b), the executive director [~~commissioner~~] may impose on the career counseling service an administrative penalty equal to two times the amount awarded under that subsection. A penalty collected under this section shall be deposited in the state treasury.

SECTION 28.089. Section 7(a), Article 9035, Revised Statutes, is amended to read as follows:

(a) To ensure the adequate performance of a warrantor's obligations to a consumer, each warrantor shall comply with financial security requirements by:

(1) insuring its vehicle protection products under a reimbursement insurance policy issued by an insurer authorized to engage in the business of insurance in this state or under a surplus lines insurance policy issued by an insurer eligible to place coverage in this state as regulated under Chapter 981 [~~Article~~

~~1.14-2~~], Insurance Code; or

(2) providing any other form of comparable financial security approved by the executive director [~~commissioner~~].

SECTION 28.090. Section 1.14, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.14. PERSONNEL. The executive director [~~commissioner~~] may, as provided by the General Appropriations Act, appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform duties and functions under this article.

SECTION 28.091. Section 1.41(e), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation. An application for a petition seeking an election to disapprove the issuance of a permit must be headed: "Application for Election to Disapprove a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants stating the following: "It is the hope, purpose, and intent of the applicants whose signatures appear on this application to see disapproved the issuance of a permit for weather modification, including hail suppression." An application

for a petition seeking an election to approve the issuance of a permit shall be headed: "Application for Election to Approve a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear on this petition to see approved the issuance of a permit for weather modification, including hail suppression." On the return to the county clerks of petitions signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election, the commissioners court of each county shall call and hold an election. Notice under Chapter 111, Local Government Code, of the commissioners court meeting to call and hold the election is not required. The date of the election shall be determined by the commissioners court in accordance with this section, notwithstanding Sections 41.004 and 41.0041, Election Code. The petition must be filed with the clerk of each county within 30 days immediately following the first publication of notice. The election must be held within 45 days after the date the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit. Immediately on calling the election, the clerk of each county within the target area or operational area shall notify the executive director [~~commissioner~~] of the date of the election. Except as otherwise provided in this article, elections must be held in accordance with the Election Code.

SECTION 28.092. The changes in law made by this article to

Section 755.024, Health and Safety Code, regarding the terminology used to identify a commission or license issued by the Texas Department of Licensing and Regulation, do not affect the validity of a commission or license issued by the department under that section.

ARTICLE 29. GENERAL TRANSITION; EFFECTIVE DATE

SECTION 29.001. The changes in law made by this Act regarding the powers and duties of the executive director of the Texas Department of Licensing and Regulation that are transferred to the Texas Commission of Licensing and Regulation do not affect the status of a complaint, investigation, or other proceeding. A rule or form adopted by the executive director before the effective date of this Act remains in effect as a rule or form of the department until amended or changed.

SECTION 29.002. This Act takes effect September 1, 2003.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

April 22, 2003
(date)

Sir:

We, your COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES

to whom was referred HB 2062 have had the same under consideration and beg to report back with the recommendation that it

( ) do pass, without amendment.
( ) do pass, with amendment(s).
(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

(X) yes ( ) no A fiscal note was requested.

( ) yes (X) no A criminal justice policy impact statement was requested.

( ) yes (X) no An equalized educational funding impact statement was requested.

( ) yes (X) no An actuarial analysis was requested.

( ) yes (X) no A water development policy impact statement was requested.

( ) yes (X) no A tax equity note was requested.

( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Flores, Chair	X			
Hamilton, Vice-chair	X			
Driver	X			
Eissler	X			
Goolsby				X
Homer	X			
Jones, D.	X			
Raymond	X			
Wise				X

Total
7 aye
0 nay
0 present, not voting
2 absent

CHAIR

BILL ANALYSIS

C.S.H.B. 2062
By: Solomons
Licensing and Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Licensing and Regulation was created in 1989 when the Legislature renamed the Bureau of Labor Statistics and established the Department as an umbrella licensing agency for non-health related professions. The Department regulates 20 different professions through examination, licensing, inspection, and enforcement. The Department is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the Legislature. As a result of its review of the Texas Department of Licensing and Regulation, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in CSHB 2062.

RULEMAKING AUTHORITY

Rulemaking authority is expressly delegated to the Commission of Licensing and Regulation in SECTION 1.017 (Section 51.302(c)), Occupations Code), SECTION 1.019 (Section 51.403, Occupations Code), SECTION 1.020 (Section 51.406, Occupations Code), SECTION 11.007 (Section 754.016, Health and Safety Code), SECTION 12.012 (Section 1202.204(b), Occupations Code), SECTION 16.007 (Subchapter C, Chapter 1304, Section 1304.105, Occupations Code), SECTION 24.015 (Subchapter F, Chapter 1901, Section 1901.257, Occupations Code), and SECTION 27.004 (Subtitle F, Title 2, Section 38.052, Water Code). Rulemaking authority is expressly delegated to the Commission on Environmental Quality in SECTION 24.015 (Subchapter F, Chapter 1901, Section 1901.257, Occupations Code). In addition, under the general rulemaking authority already granted to the Commission of Licensing and Rulemaking, rules may be developed to implement other new provisions found in this bill.

Rulemaking authority is modified by transferring the authority from the executive director of the Department of Licensing and Regulation to the Commission of Licensing and Regulation in SECTION 1.014 (Section 51.203 and 51.204, Occupations Code).

Rulemaking authority is modified by transferring the authority from the commissioner of the Department of Licensing and Regulation to the Commission of Licensing and Regulation in SECTION 2.001 (Section 1302.002(5), Occupations Code), SECTION 2.003 (Section 1302.101, Occupations Code), SECTION 2.004 (Section 1302.103, Occupations Code), SECTION 2.006 (Section 1302.204(a), Occupations Code), SECTION 2.009 (Section 1302.261, Occupations Code), SECTION 2.010 (Section 1302.354(b), Occupations Code), SECTION 2.011 (Section 1302.355(c), Occupations Code), SECTION 3.003 (Section 5A(d), Section 5A(h), and Section 5A(j), Article 9102, Revised Statutes), SECTION 4.002 (Section 1802.059(d), Occupations Code), SECTION 4.013 (Section 1802.207, Occupations Code), SECTION 4.018 (Section 1802.303(a), Occupations Code), SECTION 6.006 (Section 755.017, Health and Safety Code), SECTION 6.007 (Section 755.030(a), Health and Safety Code), SECTION 6.008 (Section 755.032, Health and Safety Code), SECTION 6.009 (Section 755.033, Health and Safety Code), SECTION 7.002 (Section 2502.056, Occupations Code), SECTION 8.004 (Section 2052.052, Occupations Code), SECTION 8.007 (Section 2052.251, Occupations Code), SECTION 9.002 (Section 57.042(g), Government Code), SECTION 9.003 (Section 57.043(b), Government Code), SECTION 11.006 (Section 754.015, Health and Safety Code), SECTION 11.008 (Section 754.017(b), Health and Safety Code), SECTION 11.009 (Section 754.019(a), Health and Safety Code), SECTION 12.003 (Section 1202.101,Occupations Code), SECTION 12.004 (Section 1202.102, Occupations Code), SECTION 12.010 (Section 1202.202(a), Occupations Code), SECTION 12.012 (Section 1202.204(a), Occupations Code), SECTION 12.013 (Section 1202.252(a), Occupations Code), SECTION 12.014 (Section 1202.301(b), Occupations Code), SECTION 12.015 (Section 1202.302, Occupations Code), SECTION 12.016 (Section 1202.351(b), Occupations Code), SECTION 15.003 (Section 1152.051, Occupations Code), SECTION 15.009 (Section 1152.160, Occupations Code), SECTION 15.012 (Section 1152.204,

Occupations Code), SECTION 15.013 (Section 1152.251, Occupations Code), SECTION 16.003 (Section 1304.052(a), Occupations Code), SECTION 16.008 (Section 1304.151(a), Occupations Code), SECTION 17.002 (Section 91.002(a) and (b), Labor Code), SECTION 17.007 (Section 91.019(a), Labor Code), SECTION 17.009 (Section 91.041(c), Labor Code), SECTION 22.003 (Section 4, Article 9035, Revised Statutes), SECTION 22.004 (Section 5(a), Article 9035, Revised Statutes), SECTION 22.005 (Section 6(d), Article 9035, Revised Statutes), SECTION 22.006 (Section 10(e), Article 9035, Revised Statutes), SECTION 24.003 (Section 1901.052, Occupations Code), SECTION 24.006 (Section 1901.109(a), Occupations Code), SECTION 24.008 (Section 1901.162, Occupations Code), SECTION 24.009 (Section 1901.251(a), Occupations Code), SECTION 24.010 (Section 1901.252(b), Occupations Code), SECTION 25.003 (Section 1902.052, Occupations Code), and SECTION 25.005 (Section 1902.162, Occupations Code).

Rulemaking authority is modified by transferring the authority from the Department of Licensing and Regulation to the Commission of Licensing and Regulation in SECTION 18.002 (Section 2105.002, Occupations Code), SECTION 18.005 (Section 2105.104, Occupations Code), SECTION 18.006 (Section 2105.105(b), Occupations Code), SECTION 26.003 (Section 1.11, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes)), SECTION 26.008 (Section 1.32, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes)), SECTION 26.009 (Section 1.41(v), Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes)), SECTION 26.010 (Section 1.64, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes)), and SECTION 26.011 (Section 1.65, Chapter 376, Acts of the 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas Civil Statutes)).

Rules of the Texas Commission on Environmental Quality are given effect as rules of the Texas Department of Licensing and Regulation until amended or replaced by the Department of Licensing and Regulation in SECTION 5.002(2), SECTION 10.002(2), SECTION 13.005(2), SECTION 21.004(2), and SECTION 23.007(2).

ANALYSIS

CSHB 2062 amends the Occupations Code, Health and Safety Code, Water Code, Labor Code, Government Code, Revised Statutes, and Chapter 376, Acts of the 77th Legislature, Regular Session, 2001, relating to the continuation and functions of the Texas Department of Licensing and Regulation (TDLR) and relating to the transfer of certain functions from the Texas Commission on Environmental Quality to TDLR, and the transfer of certain functions from TDLR to the Department of Public Safety. The bill also incorporates several standard across-the-board recommendations of the Sunset Commission.

Continuation of the Department

The bill continues TDLR until September 1, 2015 (Sec. 51.002, Occupations Code).

Commission Powers

The bill transfers rulemaking authority for all programs from the executive director of TDLR to the Texas Commission of Licensing and Regulation (Sec. 51.203, Occupations Code, and conforming changes throughout the bill). The bill also clarifies that all eleven advisory committees of TDLR exist to advise the Commission. The bill authorizes the Presiding Officer of the Commission, with approval of the Commission, to appoint all members of advisory committees and to appoint a Presiding Officer of each committee to serve for two years.

Occupational Licensing Program Transfers

The bill transfers the administration of the Backflow Prevention Assembly Testers (Sec. 341.034(c), Health and Safety Code), Customer Service Inspectors (Sec. 341.034(d), Health and Safety Code), Underground Storage Tank Operators (Sec. 26.451, 26.452, and 26.456(a), Water Code), Landscape Irrigators (Sec. 1903.001, 1903.151, and 1903.155, Occupations Code), and Water Treatment Specialists (Sec. 341.034(e), 341.101, 341.103, 341.104, and 341.105(a), Health and Safety Code) programs from the Texas Commission on Environmental Quality to TDLR. The bill gives the Commission of Licensing and Regulation authority to adopt rules, and

TDLR the authority to establish license and examination requirements necessary to administer these programs (Subtitle F, Title 2, Water Code).

Consumer Information Licensing Hotline
The bill requires TDLR to create a toll-free licensing hotline (Subchapter I, Sec. 51.452, Occupations Code) for consumers to access information about any license issued by a state licensing entity. The bill requires the department to charge state licensing entities fees to sufficiently cover the cost of the creation of the database and toll-free hotline (Subchapter I, Sec. 51.454, Occupations Code).

Unplugged Water Well Enforcement
The bill transfers the enforcement of plugging abandoned water wells to local Groundwater Conservation Districts, where they exist (Subchapter F, Sec. 1901.256). The bill maintains TDLR's authority to enforce against landowners with unplugged water wells in areas of the state where Conservation Districts do not exist, and maintains TDLR's authority to establish plugging standards. The bill requires water well drillers, pump installers, and well owners to file plugging reports with Groundwater Conservation Districts, if they exist, and with TDLR (Sec. 1901.255, Occupations Code). The bill requires the Texas Commission on Environmental Quality, TDLR and Groundwater Conservation Districts to enter into Memoranda of Understanding to coordinate well plugging enforcement activities (Subchapter F, Section 1901.257, Occupations Code).

Transportation Service Providers
The bill abolishes the registration of transportation service providers at TDLR (Sec. 2401.052, 2401.001(1), 2401.051. 2401.053, 2401.054, Subchapter C, Chapter 2401, 2401.151, and Subchapter E, Chapter 2401, Occupations Code) and transfers the authority to audit transaction records of transportation service providers to the Department of Public Safety (Sec. 2401.253 Occupations Code).

Elevator Certificates of Compliance
The bill requires that elevator certificates of compliance issued by TDLR be posted in a publicly visible area within a building (Sec. 754.016 and Sec. 754.019(a), Health and Safety Code). The bill gives the Commission of Licensing and Regulation rulemaking authority to specify what information is required on a certificate of compliance, and to determine what is a publicly visible place within a building (Sec. 754.016, Health and Safety Code). The bill repeals the provision that prohibits certificates of compliance from being publicly posted (Sec. 754.019(f) and 754.015(b)(3), Health and Safety Code).

Advisory Committee Involvement
The bill eliminates the involvement of the Water Well Drillers Advisory Council in making recommendations to the Commission of Licensing and Regulation on licensure and enforcement actions in the water well drillers (Sec. 1901.109(e), Occupations Code) and water well pump installers (Sec. 1902.051 and 1902.101, Occupations Code) programs.

Standard Administrative Penalty Procedures
The bill repeals non-standard administrative penalty amounts in the service contract providers (Sec. 1304.201(b), Occupations Code), staff leasing services (Sec. 91.021, Labor Code), vehicle protection product warrantors (Sec. 15, Article 9035, Revised Statutes), water well drillers (Subchapter H, Sec. 1901.351, Occupations Code), and water well pump installers (Subchapter H, Sec. 1902.351, Occupations Code) programs. The bill also requires the Commission of Licensing and Regulation by rule or procedure to develop a written enforcement plan that provides notice of the specific ranges of administrative penalties that apply to specific violations of the programs TDLR administers, and the criteria by which TDLR determines the amount of an administrative penalty (Sec. 51.302(c), Occupations Code).

Commission Size
The bill changes the size of the Commission of Licensing and Regulation from six to five members (Sec. 51.052(a), Occupations Code).

Architectural Barriers
The bill adds language to the Architectural Barriers program statute (Sec. 9, Article 9102, Revised Statutes) requiring all architectural barrier complaints that allege non-compliance with Texas Accessibility Standards to remain open until the building comes into compliance with the law, unless the building is exempted from compliance or otherwise unable to come into compliance.

Industrialized Housing and Buildings
The bill adds a provision to allow industrialized buildings to be movable, provides a mechanism for reinspection of industrialized buildings, and removes the requirement that all modular components be inspected at the manufacturing plant or facility (Sec. 1202.001 and Sec. 1202.1535, Occupations Code, and conforming changes throughout the article).

Conforming Changes
The bill makes conforming changes throughout the bill changing the term "commissioner" of the Department to "executive director" of the Department.

EFFECTIVE DATE
September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE
CSHB 2062 clarifies that the toll-free licensing information hotline is strictly a connection tool for consumers, so that a consumer with a question or complaint about a state-issued license can call the number, and TDLR will connect them with the appropriate licensing agency. The substitute removes language in the original bill requiring TDLR to maintain a database on licensing entities and licensing information.

The substitute removes the provision in the original bill transferring the administration of the mobile amusement park ride program from TDI to TDLR, so that the requirements revert to current law.

The substitute adds language not in the original version that requires all architectural barrier complaints that allege non-compliance with Texas Accessibility Standards to remain open until the building comes into compliance with the law, unless the building is exempted from compliance or otherwise unable to come into compliance. In the latter case, the provision requires TDLR to notify the complainant if the building is unable to come into compliance.

The substitute expands provisions in the original bill regarding enforcement time lines for the career counseling services program. The substitute also removes the requirement that a service provide its client with a copy of a contract at the first interview and the requirement that there be two interviews before entering into a contract.

The substitute adds a provision to allow industrialized housing and buildings to be movable, and provides a mechanism for reinspection. The substitute grandfathers industrialized buildings that have been approved by TDLR and have not been modified from complying with new building codes and also removes the requirement that all modular components be inspected at the manufacturing plant or facility. The substitute removes language in the Industrialized Housing and Building program that specifies that a person only commits an offense if the person knowingly and willfully violates the chapter.

The substitute clarifies that the Presiding Officer of the Commission of Licensing and Regulation will make advisory committee appointments with the approval of the full Commission.

The substitute reinstates language allowing TDLR to take administrative enforcement action against those who violate orders of the Commission.

The substitute clarifies that TDLR can provide parties with information about the complaint process instead of providing a copy of the complaint procedures and adds an effective date of January 1, 2004, for this provision.

The substitute changes the date requiring TDLR to adopt an administrative penalty matrix from December 1, 2003, to March 1, 2004.

The substitute clarifies that TDLR's license renewal procedures apply to Registered Accessibility Specialists in the Architectural Barriers program.

The substitute removes the specific 30-day time period requirement for notification of a hearing and removes the provision that appellants can file an appeal in a county other than Travis County in the Auctioneers program.

The substitute reinstates language allowing the chief boiler inspector to be the presiding officer of the Boiler Advisory Board, and changes the term "license" to the "commission" in the boiler program, reverting to current law.

The substitute changes the deadline for adopting rules regarding elevator certificates from December 1, 2003, to March 1, 2004.

The substitute removes a provision prohibiting a personnel employment service from reapplying for a new license until the third anniversary of the date the license was revoked.

The substitute repeals provisions that specify the continuing education program for property tax consultants and that allow reciprocity of licenses in the property tax consultants program, which are covered elsewhere in the bill.

The substitute adds instructional language requiring the new one-year renewals for staff leasing services to take effect on January 1, 2004.

The substitute removes language in the Water Well Driller's program that requires TDLR to get advice from the Texas Commission on Environmental Quality when adopting rules, and adds language that eliminates the involvement of the Water Well Drillers Advisory Council in making recommendations to the Commission on certain licensure and enforcement actions.

SUMMARY OF COMMITTEE ACTION

HB 2062

April 14, 2003 8:00AM

Considered in public hearing
Committee substitute considered in committee
Testimony taken in committee (See attached witness list.)
Left pending in committee

April 22, 2003 upon lunch recess

Considered in formal meeting
Committee substitute considered in committee
Reported favorably as substituted

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WITNESS LIST

HB 2062
HOUSE COMMITTEE REPORT
Licensing & Administrative Procedures Committee

April 14, 2003 - 8:00AM

For:	Johnson, Joe (Association of Texas Career Counselors)
	Mintz, David (Texas Apartment Association)
	Niemann, Larry (Texas Building Owners & Managers Association/Texas Mini-Storage Association)
Against:	Brannan, David (Austin Lawn Sprinklers Association)
	Salas, Gary (Self and Austin Lawn Sprinkler Association)
	Schwartz, John (Self and Texas Turf Irrigation Association)
On:	Batterton, Carol (TCEQ)
	Cranston, Ron (ADAPT)
	Hassumani, Sabrina (Texas Real Estate Commission)
	Kuntz, William (Texas Department of Licensing & Regulation)
	Wittie, David (ADAPT of Texas)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 24, 2003

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2062** by Solomons (Relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Texas Department of Insurance and the Texas Commission on Environmental Quality and including certain functions transferred from the department to the Department of Public Safety.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2062, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	$0
2005	$0
2006	$0
2007	$0
2008	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from *GENERAL REVENUE FUND* 1	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Change in Number of State Employees from FY 2003
2004	$29,571	($29,571)	1.0
2005	$29,571	($29,571)	1.0
2006	$29,571	($29,571)	1.0
2007	$29,571	($29,571)	1.0
2008	$29,571	($29,571)	1.0

Fiscal Analysis

The bill would continue the Department of Licensing and Regulation (TDLR) for 12 years and contains the Sunset Advisory Commission's recommendations including: reducing the size of the Commission on Licensing and Regulation from six members to five members; giving the Commission on Licensing and Regulation rulemaking authority; abolishing the registration of transportation service providers; transferring certain occupational licensing programs from the Commission of Environmental Quality to TDLR; and requiring TDLR to act as an information resource for consumers

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on all state licensing agencies.

The bill would take effect September 1, 2003.

Methodology

By decreasing the Commission on Licensing ad Regulation from six to five members, the Department of Licensing and Regulation (TDLR) would experience a reduction in travel costs of $900 per year.

Transferring all rulemaking authority to the Commission on Licensing and Regulation would require the Commission to meet two additional times each year to ensure that rules are adopted in a timely fashion. This would result in an increase in travel expenses of about $1,800 per year.

Requiring TDLR to create a central toll-free licensing hotline would have an associated start-up cost of one Administrative Technician II FTE ($29,571 total annual salary and benefits each year) to administer the system. However, the bill requires TDLR to contract with other licensing agencies to offset costs which would result in a neutral fiscal impact to the State.

The bill would transfer regulation of Backflow Prevention Assembly Testers, Customer Service Inspectors, Landscape Irrigators, Underground Storage Tank Operators, and Water Treatment Specialists programs from the Commission on Environmental Quality (TCEQ) to TDLR. All resources currently allocated to this regulation at TCEQ would transfer to TDLR resulting in no net fiscal impact to the State. Last year, TCEQ dedicated 6 FTE positions to administering all of these programs and estimates a collection of about $500,000 in licensing fee revenues for FY 2004.

The bill would abolish registration of transportation service providers at TDLR resulting in a savings of approximately $8,000 per year in funds used for regulatory activities. However, no net savings would accrue to the state because the licensing fee revenue used to cover the cost of regulation would no longer be collected.

It is assumed that all transfers of authority and other changes to TDLR operations would commence September 1, 2003.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 454 Department of Insurance, 582 Commission on Environmental Quality

LBB Staff: JK, JRO, RT, RB

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 13, 2003

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB2062** by Solomons (Relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Texas Department of Insurance and the Texas Commission on Environmental Quality and including certain functions transferred from the department to the Department of Public Safety.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2062, As Introduced: an impact of $0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	$0
2005	$0
2006	$0
2007	$0
2008	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Savings/ (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *DEPT INS OPERATING ACCT* 36	Probable Savings/ (Cost) from *DEPT INS OPERATING ACCT* 36
2004	$83,571	($83,571)	($54,000)	$54,000
2005	$83,571	($83,571)	($54,000)	$54,000
2006	$83,571	($83,571)	($54,000)	$54,000
2007	$83,571	($83,571)	($54,000)	$54,000
2008	$83,571	($83,571)	($54,000)	$54,000

Fiscal Year	Change in Number of State Employees from FY 2003
2004	1.0
2005	1.0
2006	1.0
2007	1.0
2008	1.0

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Fiscal Analysis

The bill would continue the Department of Licensing and Regulation (TDLR) for 12 years and contains the Sunset Advisory Commission's recommendations including: reducing the size of the Commission on Licensing and Regulation from six members to five members; giving the Commission on Licensing and Regulation rulemaking authority; abolishing the registration of transportation service providers; transferring certain occupational licensing programs from the Texas Commission of Environmental Quality to TDLR; requiring TDLR to act as an information resource for consumers on all state licensing agencies; and transferring oversight of mobile amusement park rides from the Texas Department of Insurance to TDLR.

The bill would take effect September 1, 2003.

Methodology

By decreasing the Commission on Licensing ad Regulation from six to five members, the Department of Licensing and Regulation (TDLR) would experience a reduction in travel costs of $900 per year.

Transferring all rulemaking authority to the Commission on Licensing and Regulation would require the Commission to meet two additional times each year to ensure that rules are adopted in a timely fashion. This would result in an increase in travel expenses of about $1,800 per year.

Requiring TDLR to create a central toll-free licensing hotline would have an associated start-up cost of one Administrative Technician II FTE ($29,571 total annual salary and benefits each year) to administer the system. However, the bill requires TDLR to contract with other licensing agencies to offset costs which would result in a neutral fiscal impact to the State.

The bill would transfer the current oversight of mobile amusement park rides from the Department of Insurance (TDI) to TDLR. All resources currently allocated to this regulation at TDI will transfer to TDLR, resulting in no net fiscal impact to the State. Last year, TDI dedicated one FTE to administering the oversight of mobile amusement park rides, issued inspections stickers to 1,350 rides, and collected $54,000 in filing fees which is deposited into the Department of Insurance Operating Fund. These filing fees, which the bill gives TDLR authority to collect, will cover the cost of regulation.

The bill would transfer regulation of Backflow Prevention Assembly Testers, Customer Service Inspectors, Landscape Irrigators, Underground Storage Tank Operators, and Water Treatment Specialists programs from the Texas Commission on Environmental Quality (TCEQ) to TDLR. All resources currently allocated to this regulation at TCEQ would transfer to TDLR resulting in no net fiscal impact to the State. Last year, TCEQ dedicated 6 FTE positions to administering all of these programs and estimates a collection of about $500,000 in licensing fee revenues for FY 2004.

The bill would abolish registration of transportation service providers at TDLR resulting in a savings of approximately $8,000 per year in funds used for regulatory activities. However, no net savings would accrue to the state because the licensing fee revenue used to cover the cost of regulation would no longer be collected.

It is assumed that all transfers of authority and other changes to TDLR operations would commence September 1, 2003.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 454 Department of Insurance, 582 Commission on Environmental Quality

LBB Staff: JK, JRO, RT, RB

for chief clerk use only
Bill or Resolution Number: HB2062

JOINT AUTHOR AUTHORIZATION

As primary author of HB 2062 (bill or resolution #) I hereby authorize the following joint author(s):

Warren Chisum
printed name of joint author #1

signature of joint author #1

APR 0 8 2003

Pete Gallego
printed name of joint author #2

signature of joint author #2

APR 0 8 2003

Jim Dunnam
printed name of joint author #3

signature of joint author #3

APR 0 8 2003

printed name of joint author #4

signature of joint author #4

signature of primary author

APR 0 8 2003

date

H.B. No. 2062 By [signature]

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Texas Department of Insurance and the Texas Commission on Environmental Quality and including certain functions transferred from the department to the Department of Public Safety.

MAR 1 0 2003 Filed with the Chief Clerk

MAR 1 7 2003 Read first time and referred to Committee on Licensing & Administrative Procedures

APR 2 2 2003 Reported ___ favorably ~~(as amended)~~
(as substituted)

APR 2 8 2003 Sent to Committee on (Calendars)
~~(Local & Consent Calendars)~~

_____ Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

_____ Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Engrossed

_____ Sent to Senate

_____
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 0 7 2003 Motion to postpone further consideration of HB No. 2062 until Thursday May 8 2003 at 10:00 AM prevailed by a non-record vote.

MAY 0 8 2003 Motion to postpone further consideration of HB No. 2062 until Saturday May 10 2003 at 10:00 AM prevailed by a non-record vote.

MAY 1 0 2003 Motion to postpone further consideration of HB No. 2062 until Tuesday May 13 2003 at 10:00 AM prevailed by a non-record vote.

_____ Received from the House

_____ Read and referred to Committee on _____

_____ Reported favorably _____

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

_____ Ordered not printed

_____ Laid before the Senate

_____ Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

_____ Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

_____ Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

_____ Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

_____ Returned to the House

_____
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,

_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)