

BILL ANALYSIS

Senate Research Center

H.B. 7
By: Swinford (Ogden)
Finance
9/18/2003
Engrossed

DIGEST AND PURPOSE

H.B. 7 relates to the organization, board membership, and functions of certain agencies and to the transfer of certain functions to other agencies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governor in SECTION 10.02 (Section 391.009, Local Government Code) of this bill.

Rulemaking authority is expressly granted to the Board of Pardons and Paroles in SECTION 12.07 (Section 508.036, Government Code) of this bill.

Rulemaking authority previously granted to the Board of Pardons and Paroles policy board is transferred to the Board of Pardons and Paroles in SECTION 12.12 (Section 508.0441, Government Code) and SECTION 12.16 (Section 508.082, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. GOVERNOR'S BUDGET AUTHORITY AND PAYMENT OF CERTAIN TAX REFUNDS

SECTION 1.01. Amends Section 401.046(a), Government Code, to require the governor to deliver a copy of the governor's budget to each member of the legislature before the governor gives the message to the legislature required by Section 9 (Governor's Message and Recommendations; Accounting for Public Money; Estimates of Money Required), Article IV, Texas Constitution, at the commencement of each regular legislative session, rather than not later than the sixth day of each regular legislative session.

SECTION 1.02. (a) Amends Rider 11, pages I-37 and I-38, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act - GAA), to delete Subdivisions c. through j., relating to the prohibition against the use of certain funds to pay a certain type of refund claim, judgment, or settlement.

(b) Provides that this section applies to a tax refund payable from funds appropriated by the GAA, regardless of whether the refund becomes payable before, on, or after the effective date of this section.

(c) Effective date of this section: upon passage or on the 91st day after the last day of the legislative session.

SECTION 1.03. Repealer: Section 401.047 (Penalty), Government Code.

ARTICLE 2. UNCLAIMED PROPERTY

SECTION 2.01. Amends Section 72.101(a), Property Code, to include a reference to a section added by this Act.

SECTION 2.02. Amends Subchapter B, Chapter 72, Property Code, by adding Section 72.1015, as follows:

Sec. 72.1015. UNCLAIMED WAGES. (a) Defines “wages.”

(b) Sets forth circumstances under which an amount of unclaimed wages is presumed abandoned.

SECTION 2.03. Amends Section 74.001(a), Property Code, as amended by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, to delete a reference to Subchapter C, Chapter 61, Labor Code.

SECTION 2.04. Amends Section 74.101(a), Property Code, as amended by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, to make a conforming change.

SECTION 2.05. Amends Section 74.301(a), Property Code, as amended by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, to make a conforming change.

SECTION 2.06. Repealer: Subchapter G (Disposition of Unclaimed Wage Payments), Chapter 61, Labor Code, as added by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 2.07. Effective date of this article: upon passage or on the 91st day after the last day of the legislative session.

ARTICLE 3. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

SECTION 3.01. Amends Section 72.101, Property Code, by adding Subsections (c) and (d), as follows:

(c) Provides that property distributable in the course of a demutualization or related reorganization of an insurance company is presumed abandoned on the first anniversary of the date the property becomes distributable if, at the time of the first distribution, the last known address of the owner according to the records of the holder of the property is known to be incorrect or the distribution or statements related to the distribution are returned by the post office as undeliverable and the owner has not communicated in writing with the holder of the property or the holder's agent regarding the interest; or otherwise communicated with the holder regarding the interest as evidenced by a memorandum or other record on file with the holder or its agents.

(d) Provides that property distributable in the course of a demutualization or related reorganization of an insurance company that is not subject to Subsection (c) is presumed abandoned as otherwise provided by this section.

SECTION 3.02. Effective date of this article: upon passage or on the 91st day after the last day of the legislative session.

ARTICLE 4. TELECONFERENCE MEETING OF LEGISLATIVE BUDGET BOARD

SECTION 4.01. Amends Section 322.003, Government Code, by adding Subsections (d) and (e), as follows:

(d) Authorizes, as an exception to Chapter 551 (Open Meetings) and other law, if the chairman

and vice-chairman of the Legislative Budget Board (LBB) are physically present at a meeting, any number of the other members of LBB to attend an LBB meeting by use of telephone conference call, video conference call, or other similar telecommunications device. Provides that this subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of LBB to otherwise fully participate in any LBB meeting. Provides that this subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

(e) Sets forth requirements for a meeting held by use of telephone conference call, video conference call, or other similar telecommunications device.

SECTION 4.02. Makes application of the change in law made by this article prospective.

ARTICLE 5. ENERGY AND WATER CONSERVATION BY STATE AGENCIES AND THE COLLECTION OF CERTAIN INFRASTRUCTURE FEES

SECTION 5.01. Amends Chapter 447, Government Code, by adding Sections 447.010 and 447.011, as follows:

Sec. 447.010. FUEL SAVINGS FOR STATE AGENCIES. (a) Defines “cost-effective,” “fuel-saving technology,” “motor vehicle,” “non-road diesel,” and “proven fuel-saving technologies.”

(b) Requires a state agency with 10 or more motor vehicles or non-road diesels to reduce the total fuel consumption of the vehicles or diesels by at least five percent from fiscal year 2002 consumption levels through the use of cost-effective proven fuel-saving technologies.

(c) Authorizes a state agency to delay reducing fuel use as described in this section until a list of proven fuel-saving technologies is provided by the state energy conservation office as provided by Section 447.011.

(d) Prohibits a state agency from purchasing or using as a fuel-saving technology a technology that is known to increase oxides of nitrogen emissions or toxic air contaminants, may be reasonably concluded to degrade air quality or human health or to negatively impact the environment, or is known to negatively affect the manufacturer’s warranty of a motor vehicle or non-road diesel.

(e) Authorizes a state agency to purchase cost-effective fuel-saving technologies out of the agency’s fuel budget.

(f) Requires a state agency to competitively evaluate similar fuel-saving technologies.

(g) Authorizes a state agency to require a seller’s agreement to refund the cost of a fuel-saving technology if it is determined to be ineffective at reducing fuel use by at least five percent before the 91st day after the date the technology is first used by the agency.

(h) Authorizes a state agency to use fuel-saving technologies that the agency determines are cost-effective and to use a fuel-saving technology in applications that provide other benefits, including emissions reductions.

(i) Authorizes a state agency to establish a program for agency employees to voluntarily purchase fuel-saving technologies, and document reductions in fuel savings and air emissions.

(j) Requires a state agency to report to the state energy conservation office annually, on a form provided by the office, on the state agency's efforts and progress under this section.

(k) Provides that this section does not apply to an institution of higher education as defined by Section 61.003, Education Code.

Sec. 447.011. FIELD DEMONSTRATIONS. (a) Requires the Texas Department of Transportation (TxDOT), under the direction of the state energy conservation office, to demonstrate the effectiveness of at least four fuel-saving technologies on a combined maximum of 100 motor vehicles or non-road diesels in accordance with this section to determine the fuel-saving technologies that may cost-effectively reduce fuel consumption and save state revenue.

(b) Requires TxDOT to select varying ages and types of motor vehicles and non-road diesels to demonstrate the fuel-saving technologies and to give a preference to high-use motor vehicles and non-road diesels in the selection.

(c) Requires TxDOT to demonstrate the performance of fuel-saving technologies by certain methods.

(d) Requires the state energy conservation office, in selecting the technologies to be evaluated, to take certain actions.

(e) Authorizes a fuel-saving technology to be disqualified from being demonstrated or used if it is known to reduce engine performance, reduce the life of the engine, require additional maintenance expenses, or degrade air quality.

(f) Authorizes the Texas Council on Environmental Technology (TCET), The University of Texas Center for Transportation Research, the University of Houston Diesel Emissions Center, or another agency to be designated to assist with executing the demonstration, compiling the results, estimating the potential average fuel savings of the technologies in different applications, or preparing a final report.

(g) Requires the state energy conservation office, on completing the demonstration described by this section, to rank the fuel-saving technologies based on their fuel savings, other cost savings, and overall cost-effectiveness. Requires the state energy conservation office to take certain actions.

(h) Requires TCET to obtain information on any fuel-saving technology that appears to reduce particulate matter, oxides of nitrogen, carbon monoxide, or hydrocarbon emissions. Authorizes TCET to use this information to fund the United States Environmental Protection Agency verification of a technology in accordance with Section 387.003, Health and Safety Code.

(i) Requires the state energy conservation office to provide the report prepared under Subsection (g) to each state agency with 10 or more motor vehicles or non-road diesels and to LBB.

(j) Requires the demonstration and associated reports described by this section to be completed not later than September 1, 2004.

(k) Requires all results of a demonstration project under this section to be made public on the state energy conservation office's Internet website.

(l) Requires the state energy conservation office to provide quarterly an updated list of all proven fuel-saving technologies on its Internet website.

(m) Prohibits money from the state highway fund from being used for the purchase, installation, maintenance, or operation of the fuel-saving technologies being assessed or subjected to controlled field tests under this section. Requires repairs to state equipment resulting from demonstrations of fuel-saving technologies to be paid from the same funds used to implement this section.

SECTION 5.02. Amends Chapter 2113, Government Code, by adding Subchapter E, as follows:

SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

Sec. 2113.301. PREFERENCE FOR FINANCING CERTAIN CAPITAL EXPENDITURES WITH MONEY GENERATED BY UTILITY COST SAVINGS CONTRACT. (a) Defines “state facility purpose” and “utility cost savings contract.”

(b) Requires a state agency, before the state agency may use appropriated money to make a capital expenditure for a state facility purpose, to determine whether the expenditure could be financed with money generated by a utility cost savings contract.

(c) Requires a state agency that is using appropriated money, if it is practicable to do so, to finance a capital expenditure for a state facility purpose with money generated by a utility cost savings contract.

(d) Requires a state agency, if it is not practicable for the state agency that is using appropriated money to finance a capital expenditure for a state facility purpose with money generated by a utility cost savings contract, to provide justification to the comptroller of public accounts (comptroller) for the capital expenditure.

(e) Requires a state agency, in determining under Subsection (b) whether a capital expenditure could be financed by a utility cost savings contract, to consider whether utility cost savings generated by any department of that agency could be a potential means of financing a capital expenditure for any department of that agency. Authorizes money generated by a utility cost savings in one department of a state agency to be used to finance capital expenditures for a state facility purpose in any department of that agency.

(f) Provides that this section does not apply to an institution of higher education as defined by Section 61.003, Education Code.

(g) Provides that this section does not apply to a capital expenditure for a state facility purpose that requires certain expeditious action.

(h) Requires the Texas Building and Procurement Commission to appoint a task force to develop design recommendations that are to be used for state facilities and that encourage rain harvesting and water recycling by state agencies using appropriated money to finance a capital expenditure for a state facility purpose.

ARTICLE 6. DESIGNATION OF PRESIDING OFFICERS

SECTION 6.01. Amends Chapter 651, Government Code, by adding Section 651.010, as follows:

Sec. 651.010. APPOINTMENT OF PRESIDING OFFICERS BY GOVERNOR. (a) Defines “state agency.”

(b) Authorizes the governor, notwithstanding other law, to designate a member of the governing body of each state agency as the presiding officer of that governing body to serve in that capacity at the pleasure of the governor.

(c) Sets forth exceptions to the application of this section.

ARTICLE 7. ADMINISTRATION OF CERTAIN LEGISLATIVE AGENCIES

SECTION 7.01. Amends Section 321.002(e), Government Code, to provide that the lieutenant governor and the speaker of the house of representatives are joint chairs of the legislative audit committee. Deletes a requirement that the committee elect a chairman.

SECTION 7.02. Amends Sections 321.018(b) and (c), Government Code, to make conforming changes.

SECTION 7.03. Amends Section 322.001(b), Government Code, to provide that the lieutenant governor and speaker are joint chairs of LBB, rather than the lieutenant governor being the chair and the speaker of the house of representatives the vice-chair.

SECTION 7.04. Amends Sections 322.003(a) and (b), Government Code, to authorize LBB to act on any matter that is within its jurisdiction by a majority vote if a quorum is present. Requires LBB to meet as often as necessary to perform its duties. Authorizes meetings to be held at any time at the request, rather than call, of either of the joint chairs, or on written petition of a majority of the LBB members from each house.

SECTION 7.05. Amends Section 322.006, Government Code, to make conforming changes.

SECTION 7.06. Amends Section 322.009, Government Code, to make a conforming change.

SECTION 7.07. Amends Section 322.013(d), Government Code, to make conforming changes.

SECTION 7.08. Amends Section 323.001(b), Government Code, as amended by Chapter 1328, Acts of the 78th Legislature, Regular Session, 2003, to increase the number of senators from five to six and decrease the number of house members from nine to five on the Texas Legislative Council (TLC).

SECTION 7.09. Amends Section 323.001(c), Government Code, to make the lieutenant governor and the speaker of the house of representatives joint chairs of TLC, rather than the lieutenant governor being chair and the speaker being vice-chair.

SECTION 7.10. Amends Sections 323.003(a) and (b), Government Code, to authorize TLC meetings to be held at any time at the request of either of the joint chairs. Provides that a majority of the TLC members from each house of the legislature constitutes a quorum, rather than twelve members including the chair and vice-chair.

SECTION 7.11. Amends Section 323.005(c), Government Code, to make conforming changes.

SECTION 7.12. Amends Sections 323.008(a)-(d), Government Code, to make conforming changes.

SECTION 7.13. Amends Section 323.011(b), Government Code, to make conforming changes.

SECTION 7.14. Amends Section 323.012(b), Government Code, to make conforming changes.

SECTION 7.15. Amends Sections 325.003(a), (d), and (j), Government Code, as follows:

(a) Provides that the Sunset Advisory Commission (SAC) consists of five, rather than four,

members of the senate and an equal number of members of the house of representatives.

(d) Amends the terms of members of SAC to conform to the new number of members from each house.

(j) Provides that seven, rather than six, members of SAC constitute a quorum.

SECTION 7.16. (a) Provides that if, on the effective date of this article, more than five members of the house of representatives are serving as TLC members, those members' terms on TLC expire on the effective date of this article, and the speaker of the house of representatives is required, as soon as possible on or after the effective date, to appoint five members.

(b) Requires the lieutenant governor, as soon as possible on or after the effective date of this article, to appoint an additional senator to serve as a member of TLC.

SECTION 7.17. Requires the lieutenant governor and the speaker of the house of representatives, as soon as possible on or after the effective date of the section of this article amending Section 325.003, Government Code, to appoint a member of the senate or house, respectively, to serve initial terms on SAC under Section 325.003, Government Code, as amended by this article, expiring September 1, 2005.

SECTION 7.18. Provides that the section of this article that amends Section 325.003, Government Code, takes effect upon passage or on the 91st day after the last day of the legislative session.

ARTICLE 8. REPORTS

SECTION 8.01. Amends Section 363.064(a), Health and Safety Code, to delete the inclusion of waste reduction in accordance with a certain goal to the extent funds are available as a required element of a regional or local solid waste management plan.

SECTION 8.02. Amends the heading to Section 5.178, Water Code, to read as follows:

Sec. 5.178. ANNUAL REPORTS; BIENNIAL APPENDICES.

SECTION 8.03. Amends Section 5.178(b), Water Code, to delete statutory references to sections being repealed by this Act.

SECTION 8.04. (a) Repealers: Sections 361.020 (State Solid Waste Plans), 361.0201 (Comprehensive Municipal Solid Waste Management), 361.0232 (Assessment of Commercial Hazardous Waste Management Capacity), 361.0233 (Assessment of Commercial Nonhazardous Solid Waste Disposal Capacity), 361.0234 (Rules; Update of Rules and Assessments; Report), 361.040(d) (Development and Use of Landfill Gas), 361.0871(c) (Evaluation of Waste Stream; Land Use and Need), 361.510 (Report), 371.063 (Biennial Reporting Requirement), 382.141 (Report Required), Health and Safety Code.

(b) Repealer: Section 5.178(c) (Annual Reports; Biennial Appendixes), Water Code.

SECTION 8.05. (a) Sets forth that it is the policy of this state to be effective and efficient with public funds, to provide for effective and efficient management of natural resources, and to serve the people of Texas by making the government more visible, accessible, coherent, consistent, and accountable to the people of Texas. Sets forth legislative findings that TCEQ's procedures for processing permits is cumbersome, confusing, lengthy, and inefficient.

(b) Provides that TCEQ's permitting processes warrant, and the legislature directs, an in-depth evaluation, including the identification of problems, potential options, and solutions. Requires

the evaluation to solicit and consider input from all stakeholders, including public hearings and the opportunity for submission of written and oral comments. Requires the solutions identified in the final assessment of TCEQ's permitting processes to ensure that certain conditions are met.

(c) Requires a seven-member study committee to conduct the evaluation and final assessment required by Subsection (b) of this section and submit its findings not later than December 1, 2004, to certain officials. Sets forth the composition of the study committee.

(d) Provides that it is the intent of the legislature to effectuate the appropriate solutions through legislation at the earliest opportunity subsequent to receipt of the study committee's final assessment.

ARTICLE 9. ABOLITION OF TEXAS COMMISSION ON PRIVATE SECURITY

SECTION 9.01. Amends Section 1702.002, Occupations Code, by adding Subdivisions (1-a) and (5-a), to define "board" and "department."

SECTION 9.02. Amends Subchapter A, Chapter 1702, Occupations Code, by adding Sections 1702.005 and 1702.006, as follows:

Sec. 1702.005. DEPARTMENT OF PUBLIC SAFETY. (a) Provides that the Texas Private Security Board (TPSB) is a part of the Department of Public Safety (DPS). Requires DPS to administer this chapter through TPSB.

(b) Provides that a reference in this chapter or another law to the Texas Commission on Private Security means TPSB.

Sec. 1702.006. TEXAS DEPARTMENT OF HEALTH. (a) Defines "personal emergency response system."

(b) Requires the Texas Department of Health (TDH), notwithstanding the other provisions of this chapter, to administer the provisions of this chapter applicable to certain persons associated with personal emergency response systems.

(c) Provides that a reference in this chapter or another law to the Texas Commission on Private Security in connection with a person described by Subsection (b) means TDH.

SECTION 9.03. Amends Section 1702.021(a), Occupations Code, as amended by Chapter 1170, Acts of the 78th Legislature, Regular Session, 2003, to provide that TPSB consists of seven, rather than eight, members. Deletes text specifying characteristics of TPSB members. Makes conforming changes.

SECTION 9.04. Amends Section 1702.025, Occupations Code, as amended by Chapter 1170, Acts of the 78th Legislature, Regular Session, 2003, and Section 1702.026, Occupations Code, to make conforming changes.

SECTION 9.05. Amends Subchapter D, Chapter 1702, Occupations Code, by adding Section 1702.0615, as follows:

Sec. 1702.0615. PLACEMENT OF PRIORITY ON PROCESSING CERTAIN APPLICATIONS. (a) Requires TPSB, in performing its functions and duties under this chapter, to place a high priority on processing applications for licenses, security officer commissions, and registrations filed by persons who provide protection for critical

infrastructure.

(b) Requires TPSB to act on an application described by Subsection (a) as expeditiously as possible but not later than the 60th day after the date TPSB receives the application.

(c) Provides that this subsection expires December 1, 2005.

SECTION 9.06. Repealer: Section 1702.022 (Ex Officio Commission Member), Occupations Code.

SECTION 9.07. Requires the governor to appoint TPSB members not later than February 1, 2004. Sets forth terms for the members to be appointed.

SECTION 9.08. (a) Provides that, on February 1, 2004, all functions and activities of the Texas Commission on Private Security are transferred to TPSB or TDH, as applicable; a rule or form is transferred; a reference in law or rule to the Texas Commission on Private Security means TPSB or TDH; a complaint, investigation, or other proceeding is transferred; all property is transferred; and the unexpended and unobligated balance of any appropriation is transferred.

(b) Authorizes the Texas Commission on Private Security, before February 1, 2004, to agree with DPS and TDH to transfer any of its property to DPS or TDH to implement the transfer required by this article.

(c) Requires the Texas Commission on Private Security, during the period beginning on the effective date of this article and ending on February 1, 2004, to continue to perform functions and activities under Chapter 1702, Occupations Code, as if that chapter had not been amended by this article, and provides that the former law is continued in effect for that purpose.

ARTICLE 10. OVERSIGHT OF REGIONAL PLANNING COMMISSIONS

SECTION 10.01. Amends the heading to Section 391.009, Local Government Code, to read as follows:

Sec. 391.009. ROLE OF STATE AUDITOR, GOVERNOR, AND STATE AGENCIES.

SECTION 10.02. Amends Section 391.009, Local Government Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Authorizes, rather than requires, the governor, with the technical assistance of the state auditor, to draft and adopt certain rules, guidelines, and reporting requirements for a regional planning commission, to protect the public interest and promote the efficient use of public funds.

(a-1) Authorizes the governor to draft and adopt rules under Subsection (a) using negotiated rulemaking procedures under Chapter 2008, Government Code.

(a-2) Requires the state auditor's office to assist the governor as provided by Subsection (a), based on a risk assessment performed by the state auditor and subject to the legislative audit committee's approval for inclusion in the audit plan under Section 321.013, Government Code.

SECTION 10.03. Amends Section 391.0095, Local Government Code, as amended by Chapter 785, Acts of the 78th Legislature, Regular Session, 2003, to require a regional planning commission to report certain information annually to the state auditor, rather than the governor. Includes references to audits being directed, rather than commissioned, by the governor's office. Requires the state auditor, if

a regional planning commission fails to submit a report or audit or is determined by the state auditor, rather than governor, to have failed to comply with a rule, requirement, or guideline adopted under Section 391.009, to report the failure to the governor's office. Requires a regional planning commission to send reports and audits to the governor. Makes conforming and nonsubstantive changes.

SECTION 10.04. Amends Section 391.0117(e), Local Government Code, to require a regional planning commission to submit certain information to the state auditor, rather than the governor. Requires the state auditor, if the state auditor, subject to the legislative audit committee's approval for inclusion in the audit plan under Section 321.013, Government Code, has recommendations to improve a regional planning commission's salary schedule or a portion of the schedule, to report the recommendations to the governor's office. Prohibits the governor's office from allowing the portion of the schedule for which the state auditor has recommendations from going into effect until revisions or explanations are given that are satisfactory to the governor based on recommendations from the state auditor.

SECTION 10.05. Provides that on the effective date of this article, a rule, requirement, or guideline adopted by the governor relating to the oversight of regional planning commissions remains in effect until amended or repealed by the governor.

ARTICLE 11. COMMISSIONER OF INSURANCE

SECTION 11.01. Amends Section 31.023, Insurance Code, to delete existing text relating to certain qualifications of the commissioner of insurance.

SECTION 11.02. Makes application of this article prospective.

ARTICLE 12. PARDONS AND PAROLES

SECTION 12.01. Amends Section 492.0131, Government Code, to change references to the Board of Pardons and Paroles (BPP) Policy Board (policy board) to the presiding officer of BPP.

SECTION 12.02. Amends Section 508.001, Government Code, by amending Subdivision (8) and adding Subdivision (10) to define "parole commissioner" and "presiding officer," and to delete the definition of "policy board."

SECTION 12.03. Amends Section 508.031(a), Government Code, to provide that BPP consists of seven, rather than 18, members appointed by the governor with the advice and consent of the senate.

SECTION 12.04. Amends Section 508.032, Government Code, by adding Subsections (c)-(e), as follows:

(c) Prohibits a person who is a former employee of the Texas Department of Criminal Justice (TDCJ) from serving on BPP before the second anniversary of the date the person terminated employment with TDCJ. Prohibits a person who is employed by TDCJ on August 1, 2003, from being employed by BPP before August 1, 2005.

(d) Prohibits, at any time, more than three members of BPP from being former TDCJ employees.

(e) Provides that for purposes of Subsections (c) and (d), previous service as a BPP member is not considered to be TDCJ employment.

SECTION 12.05. Amends Section 508.034, Government Code, as follows:

(a) Provides that it is a ground for removal from BPP that a member is absent from more than half of the regularly scheduled board or panel meetings that the member is eligible to attend during each calendar year. Removes an exception when the absence is excused by a majority vote of the board.

(b) Deletes existing text of Subsection (b). Redesignates existing Subsection (c) as Subsection (b) and amends it to make conforming changes.

(c) Redesignates existing Subsection (d) as Subsection (c) and amends it to delete provisions relating to the policy board.

(d) Redesignated from existing Subsection (e).

(e) Redesignates existing Subsection (f) as Subsection (e) and amends it to provide that it is a ground for removal from BPP that a member fails to comply with policies or rules adopted by BPP, rather than the policy board.

SECTION 12.06. Amends Section 508.035, Government Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Makes a conforming change.

(d) Authorizes the presiding officer of BPP to delegate responsibilities and authority to other members of BPP, parole commissioners, or employees of BPP; to appoint advisory committees from the membership of BPP or from parole commissioners to further the efficient administration of BPP business; and to establish policies and procedures to further the efficient administration of the business of BPP.

SECTION 12.07. Amends Section 508.036, Government Code, as amended by Section 31.01, Chapter 1170, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 508.036. New heading: GENERAL ADMINISTRATIVE DUTIES. (a) Deletes previously existing Subsections (a) and (b) relating to the designation of the members of the policy board. Sets forth administrative duties of the presiding officer.

(b) Sets forth administrative duties of BPP, including rulemaking authority.

(c) Requires the BPP administrator to prepare and maintain a written plan relating to access to BPP's programs and services by a person who does not speak English.

(d) Provides that BPP, in performing its duties, is subject to the open meetings law, Chapter 551 (Open Meetings), and the administrative procedure law, Chapter 2001 (Administrative Procedure). Provides that this subsection does not affect the provisions of Section 2001.223 (Exceptions from Declaratory Judgment, Court) exempting hearings and interviews conducted by BPP or the division from Section 2001.038 (Declaratory Judgment) and Subchapters C-H, Chapter 2001.

SECTION 12.08. Amends Section 508.0362, Government Code, to prohibit a parole commissioner employed by BPP from voting or deliberating on a matter described by Section 508.0441 until the person completes at least one course of a training program that complies with this section. Requires a training program to provide certain information, including the role and functions of BPP and parole commissioners. Makes conforming changes.

SECTION 12.09. Amends Section 508.040(a), Government Code, to provide that the presiding officer, with the advice and consent of a BPP majority, is responsible for the employment and

supervision of certain persons, including parole commissioners and personnel to assist in clemency and hearing matters.

SECTION 12.10. Amends Section 508.041, Government Code, to make conforming changes.

SECTION 12.11. Amends Section 508.042, Government Code, as follows:

Sec. 508.042. New heading: TRAINING PROGRAM FOR MEMBERS AND PAROLE COMMISSIONERS. Prohibits a parole commissioner from participating in a vote of a panel until the commissioner completes the program. Provides that this subdivision does not apply to a new parole commissioner who as a BPP member completed the program. Makes conforming changes.

SECTION 12.12. Amends Subchapter B, Chapter 508, Government Code, by amending Section 508.044 and adding Section 508.0441, as follows:

Sec. 508.044. Requires a BPP member to give full time to the duties of the member's office, including duties imposed on BPP by the Texas Constitution and other law.

Sec. 508.0441. RELEASE AND REVOCATION DUTIES. Redesignates previously existing text of Section 508.044. Sets forth determinations required to be made by BPP members and parole commissioners relating to release and revocation. Requires the BPP, rather than the policy board, to develop and implement a policy that clearly defines circumstances under which a BPP member or parole commissioner should disqualify himself or herself from voting on certain matters. Authorizes BPP, rather than the policy board, to adopt reasonable rules as proper or necessary relating to certain matters. Authorizes the presiding officer, rather than the policy board, to provide a written plan for the administrative review of actions taken by a parole panel by a review panel, rather than by the entire membership or by a subset of the entire membership of BPP. Requires BPP members and parole commissioners, at the direction of the presiding officer, to file activity reports on duties performed under this chapter.

SECTION 12.13. Amends Section 508.045, Government Code, by amending Subsections (a) and (b) to require BPP and parole commissioners to act in panels composed of three in certain matters. Requires the presiding officer, rather than the presiding officer of BPP, to designate the composition of each panel, and requires the presiding officer to designate panels composed of at least one BPP member and any combination of BPP members and parole commissioners.

SECTION 12.14. Amends Section 508.047(a), Government Code, to require the members of BPP, rather than the policy board, to meet at least once in each quarter of the calendar year at a site determined by the presiding officer.

SECTION 12.15. Amends Section 508.049, Government Code, to require BPP, rather than the policy board, after consultation with the governor and the Texas Board of Criminal Justice (TBCJ), to adopt a mission statement that reflects the responsibilities for the operation of the parole process that are assigned to BPP, the pardons and paroles division, TDCJ, or TBCJ. Requires BPP, rather than the policy board, to include in the mission statement a description of specific locations at which BPP intends to conduct business related to the operation of the parole process.

SECTION 12.16. Amends Section 508.082, Government Code, to require BPP, rather than the policy board, to adopt rules relating to certain matters, including the time, place, and manner of contact between a person representing an inmate and a member of BPP or a parole commissioner, an employee of BPP; or an employee of TDCJ.

SECTION 12.17. Amends Section 508.141(g), Government Code, as added by Chapter 349, Acts

of the 78th Legislature, Regular Session, 2003, to require BPP, rather than the policy board, to adopt a policy establishing the date on which BPP may reconsider for release an inmate who has previously been denied release.

SECTION 12.18. Amends Section 508.144 (b), Government Code, to require a BPP member or parole commissioner, if the member or parole commissioner deviates from the parole guidelines in voting on a parole decision, to produce a brief written statement describing the circumstances regarding the departure from the guidelines and place a copy of the statement in the file of the inmate for whom the parole decision was made.

SECTION 12.19. Amends Section 508.153(b), Government Code, to authorize, if more than one person is entitled to appear in person before BPP members or parole commissioners, only the person chosen by all persons entitled to appear as the persons' sole representative to appear.

SECTION 12.20. Amends Section 508.281(a), Government Code, to provide that a releasee, a person released although ineligible for release, or a person granted a conditional pardon is entitled to a hearing before a parole panel or a designated agent of BPP under the rules adopted by BPP, rather than the policy board, and within a period that permits a parole panel, a designee of BPP, or TDCJ to dispose of the charges within the periods established by Sections 508.282(a) and (b) under certain conditions.

SECTION 12.21. Amends Section 508.313(c), Government Code, as amended by Section 3, Chapter 6, Acts of the 78th Legislature, Regular Session, 2003, to require TDCJ, on request or in the normal course of official business, to provide information that is confidential and privileged under Subsection (a) to certain persons, including a member of BPP or a parole commissioner.

SECTION 12.22. (a) Repealer: Section 508.0361 (Policy Board: General Administrative Provisions), Government Code.

(b) Repealer: Section 31.02 (relating to the governor's appointment of an additional member of the BPP policy board), Chapter 1170, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 12.23. Sets forth provisions for the appointment of new members to BPP by the governor, including provisions relating to terms of new members. Provides that on the effective date of this article, a rule of the policy board is a rule of BPP.

SECTION 12.24. Provides that, notwithstanding Section 508.040(a), Government Code, as amended by this article, until February 1, 2004, the presiding officer of BPP is required to exercise responsibilities imposed by that section with the advice and consent of the policy board.

SECTION 12.25. Sets forth legislative intent regarding hiring members of BPP as parole commissioners.

ARTICLE 13. EFFECTIVE DATE

SECTION 13.01. Effective date: the 91st day after the last day of the legislative session.