

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 7  
By: Swinford (Ogden)  
Finance  
9/19/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

C.S.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 Board of Pardons and Paroles in SECTION 6.05 (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 6.10 (Section 508.0441, Government Code) and SECTION 6.14 (Section 508.082, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. TELECONFERENCE MEETING OF LEGISLATIVE BUDGET BOARD

SECTION 1.01. 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 joint chairs of the Legislative Budget Board (LBB) are physically present at a meeting, any number of the other members of the 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 an LBB member to otherwise fully participate in any meeting of the LBB. 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.

#### ARTICLE 2. GOVERNOR'S BUDGET AUTHORITY

SECTION 2.01. 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 2.02. Repealer: Section 401.047 (Penalty), Government Code.

#### 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. Provides that this article takes effect upon passage or 91 days after adjournment.

#### ARTICLE 4. MEMBERS OF TEXAS VETERANS COMMISSION

SECTION 4.01. Amends Section 434.003(c), Government Code, to delete existing text relating to restrictions on membership of the Texas Veterans Commission.

#### ARTICLE 5. COMMISSIONER OF INSURANCE

SECTION 5.01. Amends Section 31.023, Insurance Code, to delete existing text relating to certain qualifications of the commissioner of insurance.

SECTION 5.02. Makes application of this article prospective.

#### ARTICLE 6. PARDONS AND PAROLES

SECTION 6.01. 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 6.02. Amends Section 508.031(a), Government Code, to provide that the board of pardons and paroles (BPP) consists of seven, rather than 18, members appointed by the governor with the advice and consent of the senate.

SECTION 6.03. Amends Section 508.034, Government Code, as follows:

(a) Provides that it is a ground for removal from the 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, except when the absence is excused by the presiding officer, rather than by majority vote of the BPP.

(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 BPP policy board (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 the BPP that a member fails to comply with policies or rules adopted by the BPP, rather than the policy board.

SECTION 6.04. 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 to delegate responsibilities and authority to other members of the BPP, to parole commissioners, or to employees of the BPP; appoint advisory committees from the membership of the BPP or from parole commissioners to further the efficient administration of BPP business; and establish policies and procedures to further the efficient administration of the business of the BPP.

SECTION 6.05. 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 the BPP, including rulemaking authority.

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

(d) Provides that the 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 Enforcement, and Contested Case Provisions) exempting hearings and interviews conducted by the BPP of the division from Section 2001.038 (Declaratory Judgment) and Subchapters C-H, Chapter 2001.

SECTION 6.06. Amends Section 508.0362, Government Code, to prohibit a parole commissioner employed by the 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 the BPP and parole commissioners. Makes conforming changes.

SECTION 6.07. Amends Section 508.040(a), Government Code, to provide that the presiding officer is responsible for the employment and supervision of certain persons, including parole commissioners and personnel to assist in clemency and hearing matters.

SECTION 6.08. Amends Section 508.041, Government Code, to make conforming changes.

SECTION 6.09. 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 6.10. 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 the 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 the 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 the 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 6.11. 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 the BPP, to designate the composition of each panel, and authorizes the presiding officer to designate panels composed only of board members or composed of any combination of members and parole commissioners.

SECTION 6.12. Amends Section 508.047(a), Government Code to require the members of the 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 6.13. Amends Section 508.049, Government Code, to require the 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 the BPP, the pardons and paroles division, the Texas Department of Criminal Justice (TDCJ), or TBCJ. Requires the BPP, rather than the policy board, to include in the mission statement a description of specific locations at which the BPP intends to conduct business related to the operation of the parole process.

SECTION 6.14. Amends Section 508.082, Government Code, to require the 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 the BPP or a parole commissioner, an employee of the BPP; or an employee of TDCJ.

SECTION 6.15. Amends Section 508.141(g), Government Code, as added by Chapter 349, Acts of the 78th Legislature, Regular Session, 2003, to require the BPP, rather than the policy board, to adopt a policy establishing the date on which the BPP may reconsider for release an inmate who has previously been denied release.

SECTION 6.16. 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 6.17. Amends Section 508.153(b), Government Code, to authorize, if more than one person is entitled to appear in person before the BPP members or parole commissioners, only the

person chosen by all persons entitled to appear as the persons' sole representative to appear.

SECTION 6.18. 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 the BPP under the rules adopted by the BPP, rather than the policy board, and within a period that permits a parole panel, a designee of the BPP, or TDCJ to dispose of the charges within the periods established by Sections 508.282(a) and (b) under certain conditions.

SECTION 6.19. 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 the BPP or a parole commissioner.

SECTION 6.20. Amends Section 492.0131, Government Code, to require the TBCJ and the presiding officer of the BPP to jointly review all rules, policies, and procedures of TDCJ and the BPP that relate to or affect the operation of the parole process. Requires the TBCJ and the presiding officer of the BPP to identify areas of inconsistency between TDCJ and the BPP and to amend rules or change policies and procedures as necessary for consistent operation of the parole process.

SECTION 6.21. Repealer: Section 508.0361 (Policy Board: General Administrative Provisions), Government Code.

SECTION 6.22. Sets forth provisions for the appointment of new members to the 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 the BPP.

#### ARTICLE 7. DESIGNATION OF PRESIDING OFFICERS

SECTION 7.01. 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) Authorizes the governor to designate as the presiding officer only a member of the governing body who has been confirmed by the senate. Authorizes the governor, if no member of the governing body has been confirmed by the senate and the legislature is not in session, to designate as the presiding officer a member who has not yet been confirmed by the senate but who is subject to senate confirmation.

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

#### ARTICLE 8. REPORTS

SECTION 8.01. Amends Section 363.064(a), Health and Safety Code, to delete existing text relating to the inclusion of certain waste reduction in 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 require the report due by December 1 of an even-numbered year to include certain items, including the assessments and reports required by Section 361.0219(c), Health and Safety Code. Deletes reference to reports contained in Sections 361.0232, 361.510, 371.063, and 382.141, Health and Safety Code. Makes nonsubstantive changes.

SECTION 8.04. (a) Repealer: Sections 361.020, 361.0201, 361.0232, 361.0233, 361.0234, 361.040(d), 361.0871(c), 361.510, 371.063, and 382.141, Health and Safety Code.

(b) Repealer: Section 5.178(c), Water Code.

#### ARTICLE 9. PERMITS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 9.01. (a) Provides 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. Provides that the legislature finds that the Texas Commission on Environmental Quality's (TCEQ) procedures for processing permits is cumbersome, confusing, lengthy, and inefficient for citizens, business, political subdivisions, and TCEQ.

(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 certain outcomes.

(c) Requires a joint committee of the Senate Natural Resources Committee and House Environmental Regulation Committee to conduct the evaluation and final assessment required by Subsection (b) of this section and submit its findings not later than November 1, 2004, to the governor, the speaker of the house of representatives, and TCEQ.

(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 10. ORGANIZATION OF CERTAIN STATE AGENCIES; TRANSFER OF CERTAIN FUNCTIONS

SECTION 10.01. 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. Requires the legislative audit committee to elect one member to serve as secretary.

SECTION 10.02. Amends Sections 321.018(b) and (c), Government Code, to make conforming changes.

SECTION 10.03. Amends Section 322.001(b), Government Code, to provide that the lieutenant governor and the speaker of the house of representatives are joint chairs of LBB, rather than the lieutenant governor being the chair and the speaker the vice-chair.

SECTION 10.04. Amends Sections 322.003(a) and (b), Government Code, as follows:

(a) Authorizes the LBB, if a quorum is present, to act on any matter that is within its jurisdiction by a majority vote.

(b) Requires the LBB to meet as often as necessary to perform its duties. Authorizes meetings to be held at any time at the request of either of the joint chairs or on written petition of a

majority of the LBB members from each house.

SECTION 10.05. Amends Section 322.006, Government Code, to make conforming changes.

SECTION 10.06. Amends Section 322.009, Government Code, to make conforming changes.

SECTION 10.07. Amends Section 322.013(d), Government Code, to make conforming changes.

SECTION 10.08. Amends Sections 322.001 through 322.014, Government Code, by designating them as Subchapter A, Chapter 322, Government Code, and titling the subchapter as follows:

#### SUBCHAPTER A. GENERAL PROVISIONS

SECTION 10.09. Amends Subchapter A, Chapter 322, Government Code, as designated by this Act, by adding Sections 322.015 through 322.018, as follows:

Sec. 322.015. REVIEW OF INTERSCHOLASTIC COMPETITION. Authorizes the LBB to periodically review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of an organization that is a component or part of a state agency or institution and that sanctions or conducts interscholastic competition. Requires the LBB to report the findings to the governor and the legislature. Authorizes the legislature to consider the LBB's reports in connection with the legislative appropriations process.

Sec. 322.016. PERFORMANCE REVIEW OF SCHOOL DISTRICTS. (a) Authorizes the LBB to periodically review the effectiveness and efficiency of the operations of school districts. Authorizes a review of a school district to be initiated by the LBB at its discretion or on the request of the school district. Authorizes a review to be initiated by a school district only by resolution adopted by a majority of the members of the board of trustees of the district.

(b) Requires the school district, if a review is initiated on the request of the school district, to pay 25 percent of the cost incurred in conducting the review.

(c) Sets forth reporting requirements of the LBB.

Sec. 322.017. EFFICIENCY REVIEW OF STATE AGENCIES. (a) Defines "state agency."

(b) Authorizes the LBB periodically to review and analyze the effectiveness and efficiency of the policies, management, fiscal affairs, and operations of state agencies.

(c) Requires the LBB to report the findings of the review and analysis to the governor and the legislature.

(d) Authorizes the legislature to consider the LBB's reports in connection with the legislative appropriations process.

Sec. 322.018. RECORDS MANAGEMENT REVIEW. (a) Defines "state agency."

(b) Authorizes the LBB to periodically review and analyze the effectiveness and efficiency of the policies and management of a state governmental committee or state agency that is involved in certain functions.

SECTION 10.10. Amends Section 323.001(b), Government Code, as amended by Chapter 1328, Acts of the 78th Legislature, Regular Session, 2003, to provide that the Texas Legislative Council (TLC) consists of certain persons, including six, rather than five, senators from various areas of the state

appointed by the president of the senate, and five, rather than nine, other members of the house of representatives from various areas of the state appointed by the speaker.

SECTION 10.11. Amends Section 323.001(c), Government Code, to provide that the lieutenant governor and the speaker of the house of representatives are joint chairs of TLC, rather than the lieutenant governor being the chair and the speaker the vice-chair.

SECTION 10.12. Amends Chapter 323, Government Code, by adding Section 323.002, as follows:

Sec. 323.002. EXECUTIVE DIRECTOR. Requires TLC to appoint an executive director to serve at the will of TLC.

SECTION 10.13. Amends Sections 323.003(a) and (b), Government Code, as follows:

(a) Authorizes TLC meetings to be held at any time at the request of either of the joint chairs.

(b) Provides that a majority of the members, rather than twelve members, of TLC from each house of the legislature constitutes a quorum. Deletes existing text including the chairman and vice-chairman. Authorizes TLC, if a quorum is present, to act on any matter that is within its jurisdiction by a majority vote.

SECTION 10.14. Amends Section 323.005(c), Government Code, to make a conforming change.

SECTION 10.15. Amends Sections 323.008(a) through (d), Government Code, to make conforming changes.

SECTION 10.16. Amends Section 323.011(b), Government Code, to make conforming changes.

SECTION 10.17. Amends Section 323.012(b), Government Code, to make conforming changes.

SECTION 10.18. 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 one public member appointed by the lieutenant governor and five, rather than four, members of the house of representatives and one public member appointed by the speaker of the house.

(d) Provides that legislative members serve four-year terms, with terms staggered so that the terms of as near to one-half of the legislative members appointed by the lieutenant governor as possible and the terms of as near to one-half of the legislative members appointed by the speaker as possible expire September 1 of each odd-numbered year.

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

SECTION 10.19. Repealer: Section 403.020 (Performance Review of School Districts), Government Code;

Section 403.0205 (Review by Comptroller-Interscholastic Competition), Government Code;

Section 403.022 (Review of State Agencies), Government Code; and

Section 403.024 (Review by Comptroller: Records Management), Government Code.

SECTION 10.20. Sets forth provisions for the implementation of the changes in this Act relating to TLC membership and terms.



SECTION 10.21. Sets forth provisions for the implementation of the changes in this Act relating to SAC membership and terms.

SECTION 10.22. Provides that on the effective date of this article:

All records and other property of the comptroller of public accounts (comptroller) that relate to a review of interscholastic competition, a performance review of school districts, an efficiency review of a state agency, or a records management review are transferred to the LBB;

All unexpended and unobligated appropriations of the comptroller relating to the comptroller's review of interscholastic competition, performance review of school districts, efficiency review of a state agency, or records management review are transferred to the LBB;

All employees of the comptroller whose primary functions relate to the review of interscholastic competition, performance review of school districts, efficiency review of state agencies, or records management review become employees of the LBB; and

Any reference in law to the comptroller that relates to the review of interscholastic competition, performance review of school districts, efficiency review of state agencies, or records management review means the LBB.

SECTION 10.23. Provides that the section of this article that amends Section 325.003, Government Code, is effective upon passage or on the 91st day after the last day of the legislative session.

#### ARTICLE 11. UNCLAIMED PROPERTY

SECTION 11.01. Amends Section 72.101(a), Property Code, to provide that personal property, except as provided by this section and Sections 72.1015 and 72.102 (Traveler's Check and Money Order), is presumed abandoned under certain conditions.

SECTION 11.02. Amends Subchapter B, Chapter 72, Property Code, by adding Section 72.1015, as follows:

Sec. 72.1015. UNCLAIMED WAGES. (a) Defines "wages."

(b) Provides that an amount of unclaimed wages is presumed abandoned if, for longer than one year the existence and location of the person to whom the wages are owed is unknown to the holder of the wages, and, according to the knowledge and records of the holder of the wages, a claim to the wages has not been asserted or an act of ownership of the wages has not been exercised.

SECTION 11.03. Amends Section 74.001(a), Property Code, as amended by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, to delete application of this chapter to a holder of property that is presumed abandoned under Subchapter G (Disposition of Unclaimed Wage Payments), Chapter 61, Labor Code. Makes nonsubstantive changes.

SECTION 11.04. Amends Section 74.101(a), Property Code, as amended by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, to make conforming and nonsubstantive changes.

SECTION 11.05. Amends Section 74.301(a), Property Code, as amended by Chapter 465, Acts of the 78th Legislature, Regular Session, 2003, to make conforming changes.

SECTION 11.06. Repealer: Subchapter G (Disposition of Unclaimed Wage Payments), Chapter 61, Labor Code.

SECTION 11.07. Provides that this article takes effect upon passage or 91 days after adjournment.

#### ARTICLE 12. TRANSFER AND USE OF CERTAIN REAL PROPERTY

SECTION 12.01. Amends Section 4, Chapter 38, General Laws, Acts of the 35th Legislature, Regular Session, 1917, to require, if any portion greater than one-tenth of one acre, rather than any portion, of said property be used by said city for any purpose except public park and recreational purposes and purposes incident thereto, the title to said property to revert to the State of Texas free from all claims of said city of Austin. Provides that Sections 253.001(b) and (d) (Sale of Park Land, Municipal Building Site, or Abandoned Property), Local Government Code, Chapter 272 (Sale or Lease of Property by Municipalities, Counties, and Certain Other Local Governments), Local Government Code, Chapter 26 (Protection of Public Parks and Recreational Lands), Parks and Wildlife Code, any similar charter provision of said city, and any use restriction imposed by this Act do not apply to the sale, conveyance, or lease of a portion of said property to an owner of an interest in adjoining property if the portion of said property is less than one-tenth of one acre. Requires a lease, sale, or conveyance of any interest in land described by Section 1 or 2 of this Act to be submitted to the commissioner of the General Land Office for review and comment before the completion of the transaction. Prohibits, if more than one portion of said property is used for a purpose other than a purpose described by Section 2 of this Act, the aggregate of those portions of said property from exceeding one-tenth of one acre.

#### ARTICLE 13. CERTAIN GOVERNMENTAL CONTRACTS TO BE PERFORMED IN NONATTAINMENT AREAS FOR NATIONAL AMBIENT AIR QUALITY STANDARDS

SECTION 13.01. Amends Section 2155.451(a), Government Code, as added by Section 19, Chapter 1331, Acts of the 78th Legislature, Regular Session, 2003, to provide that this section applies only to a contract to be performed, wholly or partly, in a nonattainment area or in an affected county, as those terms are defined by Section 386.001 (Definitions), Health and Safety Code.

SECTION 13.02. Amends Section 271.907(b), Local Government Code, as added by Section 20, Chapter 1331, Acts of the 78th Legislature, Regular Session, 2003, to make conforming changes.

SECTION 13.03. Provides that this article takes effect upon passage or 91 days after adjournment.

#### ARTICLE 14. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM ASSETS

SECTION 14.01. Amends Section 845.301(a), Government Code, as amended by Chapter 1103, Acts of the 78th Legislature, Regular Session, 2003, to provide that investment decisions are subject to the standard provided in the Texas Trust Code by Section 117.004(b), rather than Sections 117.004(a)-(c), Property Code.

#### ARTICLE 15. PARTICIPATION OF CERTAIN GOVERNMENTAL EMPLOYEES AND RETIREES IN CERTAIN GROUP BENEFIT PLANS

SECTION 15.01. Amends Section 1551.102, Insurance Code, by adding Subsection (i), as follows:

(i) Provides that subject to Section 1551.323, an individual and the individual's dependents are eligible to participate in the group benefits program as an annuitant and the dependents of an annuitant if the individual served in a position for which the individual was eligible to participate in the group benefits program under Section 1551.101 (Participation Eligibility: State Officers and Employees) on or before August 31, 2003, and at the time of retirement meets the requirements for eligibility for participation in the program as an annuitant as those requirements existed on August 31, 2003.

SECTION 15.02. Amends Section 1551.111, Insurance Code, by adding Subsection (e), as follows:

(e) Provides that subject to Section 1551.323, an individual and the individual's dependents are eligible to participate in the group benefits program as an annuitant and the dependents of an annuitant as described under this section if the individual served as an officer or employee as described by Subsection (b)(1) on or before August 31, 2003, and at the time of retirement meets the requirements for eligibility for participation in the program as an annuitant as those requirements existed on August 31, 2003.

SECTION 15.03. Amends Section 1551.112, Insurance Code, by adding Subsection (c), as follows:

(c) Provides that subject to Section 1551.323, an individual and the individual's dependents are eligible to participate in the group benefits program as an annuitant and the dependents of an annuitant as described under this section if the individual served in a position described by Subsection (a) on or before August 31, 2003, and at the time of retirement meets the requirements for eligibility for participation in the program as an annuitant as those requirements existed on August 31, 2003.

SECTION 15.04. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.323, as follows:

Sec. 1551.323. COST OF CERTAIN ANNUITANTS. (a) Provides that an annuitant eligible to participate under Section 1551.102(i), 1551.111(e), or 1551.112(c) is, except as provided by this subsection, required to pay the total cost, as determined by the board, attributable to the participation of that individual and the dependents of that individual until the date the individual is 65 years of age. Requires payment of those costs, if the General Appropriations Act or other similar legislation addresses the payment of those costs, to be paid in the manner specified by that legislation.

(b) Provides that this section applies only to an individual who is eligible to participate as an annuitant under Section 1551.102(i), 1551.111(e), or 1551.112(c) and who is not eligible to participate under another provision of Section 1551.102 (Participation Eligibility: Annuitants), 1551.111 (Participation by Certain Retirement Systems), or 1551.112 (Participation by Texas Turnpike Authority).

SECTION 15.05. Reenacts Section 1575.004, Insurance Code, as amended by Chapter 1231, Chapter 201, and Chapter 1276, Acts of the 78th Legislature, Regular Session, 2003, and amends it as follows:

Sec. 1575.004. DEFINITION OF RETIREE. (a) Redefines "retiree."

(b) Provides that each year of service credit in the system that an individual would have received but for the individual's participation in the deferred retirement option plan is considered a year of service credit solely for the purpose of meeting the definition of "retiree."

(c) Defines "public school."

SECTION 15.06. Reenacts Section 1575.161(b), Insurance Code, as added by Chapter 1231 and Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, and amends it to authorize a retiree who is enrolled in the group program as of August 31, 2004, and who is 65 years of age after that date to select coverage as described by Subsections (c) and (d) on the date that the retiree is 65 years of age.

SECTION 15.07. Redesignates Section 1575.161, Insurance Code, as added by Chapter 213, Acts of the 78th Legislature, Regular Session, 2003, as Section 1575.170, Insurance Code.

SECTION 15.08. Amends Section 1575.211, Insurance Code, as added by Chapter 1231 and Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, by adding Subsection (c) to provide that a retiree eligible to participate under Section 1575.004(a)(1)(B) is, except as provided by this subsection, required to pay the total cost, as determined by the trustee, attributable to the participation of that individual and the dependents of that individual until the date the individual is 65 years of age. Authorizes the General Appropriations Act or other similar legislation to specify a different allocation of total costs for retirees eligible to participate under Section 1575.004(a)(1)(B) and the dependents of those retirees. Provides that this subsection applies only to an individual who is eligible to participate as an annuitant under Section 1575.004(a)(1)(B) and who is not eligible to participate under another provision of Section 1575.004 (Definition of Retiree) at the time of retirement.

SECTION 15.09. Amends Subchapter E, Chapter 3, Insurance Code, by adding Article 3.50-8A, as follows:

Art. 3.50-8A. ADMINISTRATION OF ACTIVE EMPLOYEE HEALTH COVERAGE OR COMPENSATION SUPPLEMENTATION. (a) Requires the Teacher Retirement System of Texas (TRS), as trustee, in administering the program for active employee health coverage or compensation supplementation established under Article 3.50-8 before September 1, 2004, in accordance with Article 3, Chapter 313, Acts of the 78th Legislature, Regular Session, 2003, each year, to deliver to each school district, including one that is ineligible for state aid under Chapter 42, Education Code, each other education district that is a member of TRS, each participating charter school, and each regional education service center, state funds in an amount, as determined by TRS, equal to the results of applying a certain formula.

(b) Provides that an administrator of a district, charter school, or service center described by Subsection (a) of this article is not eligible to receive state funds under the program for active employee health coverage or compensation supplementation.

(c) Provides that for purposes of this article, an individual is an administrator if the individual meets certain criteria.

(d) Provides that this article applies notwithstanding Section 2(a), Article 3.50-8, as that subsection existed before amendment by Chapter 313, Acts of the 78th Legislature, Regular Session, 2003, or as that subsection was amended by Section 57, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003.

(e) Provides that Sections 2(b), (c), and (d), Article 3.50-8, as those sections existed before amendment by Chapter 313, Acts of the 78th Legislature, Regular Session, 2003, apply to the delivery of state funds under Subsection (a) of this article.

(f) Provides that the terms used in this article have the meanings assigned by Section 1, Article 3.50-8.

(g) Expiration date of this article: September 1, 2004.

SECTION 15.10. (a) Effective date of this article: except as otherwise provided by this section, upon passage or on the 91st day after the last day of the legislative session.

(b) Effective date of SECTIONS 15.05 and 15.08 of this article: September 1, 2004.

## ARTICLE 16. ENERGY AND WATER CONSERVATION BY STATE AGENCIES

SECTION 16.01. 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 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 engine emissions above the levels established by the United States Environmental Protection Agency, 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 evaluate similar fuel-saving technologies competitively.

(g) Authorizes a state agency to condition a purchase of a fuel-saving technology on the seller's agreement to refund the cost of the technology if the agency determines it 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 a fuel-saving technology that the agency determines is 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 voluntarily to 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.

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 TCEQ, 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 TCEQ to obtain information on any fuel-saving technology that appears to reduce particulate matter, oxides of nitrogen, carbon monoxide, or hydrocarbon emissions. Authorizes TCEQ 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 the 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 16.02. 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 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 17. CLOSURE OF CERTAIN PROGRAMS ON LOW-PERFORMING CAMPUSES

SECTION 17.01. Amends Section 39.132(b), Education Code, as amended by Chapter 342, Acts of the 78th Legislature, Regular Session, 2003, to require the commissioner of education, if a campus has been a low-performing campus for a period of two consecutive years or more, to order the closure of the district or charter program on the campus or reconstitute the campus.

## ARTICLE 18. PARTICIPATION IN STATE EMPLOYEE CHARITABLE CAMPAIGN

SECTION 18.01. Provides that any federation or organization that has participated in the state employee charitable campaign authorized by Subchapter I (Charitable Contributions), Chapter 659, Government Code, is not barred from participation in the program, both in terms of actual participation and the purposes for which the contributions are used, as a result of changes made in the law by Sections 35, 36, 37, and 121, Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003. Provides that this section is not intended to excuse a federation or organization from compliance with any other law, rule, or state policy.

## ARTICLE 19. CERTAIN AGREEMENTS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

SECTION 19.01. Amends Subchapter C, Chapter 201, Transportation Code, by adding Section 201.1055, as follows:

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. Authorizes TxDOT and a private entity that offers the best value to the state, notwithstanding any other law, including Subchapter A, Chapter 2254, Chapters 2165, 2166, and 2167, Government Code, and

Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, to enter into an agreement that includes both design and construction of a district office headquarters facility located in a county with a population of 3.3 million or more; a lease of TxDOT-owned real property in a district that includes a county with a population of 3.3 million or more to the private entity; a provision authorizing the private entity to construct and retain ownership of a building on property leased to the entity under Subdivision (2); and a provision under which TxDOT agrees to enter into an agreement to lease with an option or options to purchase a building constructed on property leased to the entity under Subdivision (2).

#### ARTICLE 20. ALCOHOLIC BEVERAGE REGULATION

SECTION 20.01. Amends Section 105.07(b), Alcoholic Beverage Code, as added by Chapter 946, Acts of the 78th Legislature, Regular Session, 2003, to delete existing text relating to the consumption of alcohol at certain public entertainment facilities.

#### ARTICLE 21. APPROPRIATIONS TO TEXAS DEPARTMENT OF PUBLIC SAFETY

SECTION 21.01. Amends Section 12.03, Article IX, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), by adding Subsection (e), as follows:

(e) Prohibits the appropriation of the Department of Public Safety (DPS) for fiscal year 2004 or 2005, regardless of the date on which an employee described by this subsection retires, from being reduced under Subsection (a) of this section as the result of the retirement of a DPS employee who is a commissioned peace officer and who retires as provided by Section 814.1051 (Lump-Sum Payment in Addition to Annuity for Certain Retirees), Government Code, as added by Chapter 735, Acts of the 78th Legislature, Regular Session, 2003. Authorizes DPS to use money that would otherwise have been reduced under Subsection (a) of this section only to comply with Rider 39 following the appropriation to DPS. Requires lump-sum retirement incentive payments for DPS employees who are commissioned peace officers and who retire as provided by Section 814.1051, Government Code, to be paid in accordance with Subsections (b)(1) and (c) of this section.

#### ARTICLE 22. AUDIT OF TAX SETTLEMENT

SECTION 22.01. Amends Chapter 321, Government Code, by adding Section 321.0138, as follows:

Sec. 321.0138. AUDIT OF STATE TAX SETTLEMENT. (a) Sets forth settlements to which this section applies.

(b) Authorizes the state auditor to audit a tax settlement to which this section applies. Entitles the state auditor, in determining whether this section applies and in conducting the audit, to access information related to the settlement to the same extent the state auditor would be entitled under Section 321.013 if the information were in a department or entity that is subject to audit.

(c) Authorizes the legislative audit committee, notwithstanding any other law, including Sections 111.006, 151.027, and 171.206, Tax Code, to release the name of a taxpayer that is subject to a settlement to which this section applies and the amount of relief the taxpayer received as a result of the settlement. Prohibits the legislative audit committee from releasing any other information made confidential by those or other laws.

#### ARTICLE 23. COMPTROLLER OF PUBLIC ACCOUNTS

SECTION 23.01. Amends Section 403.0131, Government Code, as follows:



Sec. 403.0131. New heading: APPROPRIATION CERTIFICATION. (a) Requires the comptroller, not later than the 10th day, excluding Sundays, after the date on which an act making an appropriation is reported enrolled by the house of origin, to complete the evaluation and certification of the appropriation required by Section 49a(b), Article III, Texas Constitution.

(b) Redesignated from existing text.

#### ARTICLE 24. EFFECTIVE DATE

SECTION 24.01. Effective date: 91 days after adjournment, except as otherwise provided by this Act.